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ALTO VELO ISLAND.

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REPORT

OF

THE SECRETARY OF STATE

ON THE CLAIM OF

PATTERSON AND MURGUIENDO,

WITH

A FURTHER ARGUMENT OF THE CLAIMANTS.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1868.

40TH CONGRESS, 2d Session. | SENATE. | Ex Doc. No. 38.

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MESSAGE

OF THE

PRESIDENT OF THE UNITED STATES,

COMMUNICATING,

In compliance with a resolution of the Senate of January 13, 1868, *correspondence in relation to a claim to the guano on Alto Velo, an island in the vicinity of Saint Domingo.*

MARCH 6, 1868.—Read and referred to the Committee on Foreign Relations.
MARCH 9, 1868.—Ordered to be printed.

WASHINGTON, *March* 6, 1868.

To the Senate of the United States:

I transmit to the Senate the accompanying report of the Secretary of State, in answer to their resolution of the 13th January.

ANDREW JOHNSON.

DEPARTMENT OF STATE,
Washington, February 12, 1868.

The Secretary of State, to whom was referred the resolution of the Senate of the 13th ultimo, requesting the President to communicate to that body, "if deemed compatible with the public interest, a copy of any official correspondence on the subject of a claim, under the act of Congress of the eighteenth of August, eighteen hundred and fifty-six, by any citizen of the United States, to the guano on Alto Velo, an island in the vicinity of Saint Domingo," has the honor to submit to the President the accompanying report, together with a further argument of the claimants which has been filed in the Department of State.

Respectfully submitted:

WILLIAM H. SEWARD.

The PRESIDENT.

ALTO VELO.—CLAIM OF PATTERSON AND MURGUIENDO.

DEPARTMENT OF STATE, *January* 17, 1867.

The Secretary of State has the honor to submit the following report:

GUANO ACT OF 1856.

Appendix No. 1. What is called the Guano Island act became a law on the 18th of August, 1856. The law substantially declares that when any citizen or citizens of the United States may have discovered, or shall hereafter discover, a deposit of guano on any island, rock, or key, not within the lawful jurisdiction of any government, and not occupied by the citizens of any other government, and shall take peaceable possession thereof and occupy the same, said island, rock, or key may, at the discretion of the President of the United States, be considered as pertaining to the United States: provided, however, that notice be given by the discoverer, as soon as practicable, to the Department of State of such discovery, occupation, and possession, verified by affidavit, describing the island, rock, or key, and the latitude and the longitude thereof, and showing that such possession was taken in the name of the United States; and that satisfactory evidence be furnished to the State Department that such island, rock, or key was not, at the time of the discovery thereof, or of the taking possession and occupation thereof, in the possession or occupation of any government, or of the citizens of any other government. The law further declares that the discoverer, or his assigns, being citizens of the United States, may be allowed, at the pleasure of Congress, the exclusive right of occupying such islands, rocks, or keys for the purpose of obtaining guano, and of selling and delivering the same to citizens of the United States for the purpose of being used therein, and may be allowed to charge and receive for every ton thereof delivered alongside a vessel, in proper tubs, within reach of ship's tackle, a sum not exceeding eight dollars per ton for the best quality, or four dollars per ton in its native place of deposit: provided, that no guano shall be taken from said island, rock, or key except for the use of citizens of the United States, or of persons resident therein: provided, further, that the discoverer, or his assigns, first enter into bonds, with such penalties or securities as may be required by the President, to deliver the guano to citizens of the United States for the purpose of being used therein, and to none others, at the price aforesaid, and to provide all necessary facilities for that purpose within a fixed time; and that a breach of the provisions of the bond shall be deemed a forfeiture of all rights secured under and by virtue of the law. The law still further declares that the President of the United States is thereby authorized at his discretion to employ the land and naval forces of the United States to protect the rights of the discover or his assigns.

HISTORY OF THE CLAIM.

The documents are voluminous, controversial, and conflicting. W. T. Kendall,
Appendix No. 2. in a letter to the Secretary of State, May 14, 1860, stated that his brig Delta, of Baltimore, Captain R. Daulby, on the 19th of March, 1860, discovered a deposit of guano upon Alto Velo island; that he took possession of the island, loaded his vessel with guano and sent her home, Captain Daulby remaining on the island with two men to work and hold possession. Kendall alleged that the island lay out of the jurisdiction of any other government, and that it was uninhabited at the time of discovery. He concluded his letter with a request that the Secretary of State would cause a proper entry to be made in Kendall's name as owner and discoverer of said guano deposit.

Patterson and Murguiendo, about the same date, wrote to the Secretary of
Appendix No. 3. State upon the back of a printed copy of the Guano Island law. They assumed to give notice to the Secretary of State that in con-

JAN 10 1930

formity with the aforesaid law they had taken possession of the island of Alto Velo, in the Caribbean sea, latitude 17° 28′ 11″, longitude 71° 41′ 30″; that the island was then in their possession and was occupied by Captain S. R. Kimball and crew of the schooner Boston, (port not specified.) Patterson and Murguiendo proceeded in their letter as follows: "When we get our duplicate letters, the originals of which were sent us through Captain Daulby, of the brig Delta, which, by some unaccountable and unexplained reason, have not as yet come to hand, we will furnish the department with full particulars and the necessary proofs called for by this act." The writers added: "We would have given this notice to the Department (of State) on the 29th of April, 1860, on receipt of our second letters of that date, but waited for the original letters, which contained full particulars."

KENDALL'S PROOFS.

William T. Kendall wrote to the Secretary of State, June 5, 1860, and submitted proofs that he had discovered a deposit of guano on the island of Alto Velo, and that he had taken possession of and located himself upon it. Upon these proofs he asked the Secretary of State to prescribe his bonds in comformity with the act, and said that he had a vessel ready to send to the island, and wished to go there properly authorized. Kendall's proofs, thus submitted, were substantially the following:

Appendix No. 4.

A deposition made, on the 6th of June, 1860, by George W. Goslin, James Gordon, and John Pugh, to the effect, namely, that Kendall, on the 28th day of January, 1860, fitted out at Baltimore the brig Delta, and despatched her, under the command of Captain Richard Daulby, to the Caribbean sea; that Goslin, Gordon, and Pugh, on the 19th of April arrived in the said brig Delta at an island "called Alta Vela, lying in latitude 17° 30′, longitude 72° 40′, about forty miles from the island of San Domingo;" that they landed upon the island, and found there at least 15,000 tons of guano. Goslin, Gordon, and Pugh further depose, that the said island was at the time uninhabited, and that it bore no traces of having been at any previous time inhabited; that, being unclaimed and not occupied, said Captain Richard Daulby took possession of the island in the name of the United States, and for the benefit of W. T. Kendall; that they raised a flag and built a house upon the island, loaded the brig [Delta] with guano, and sent her to Baltimore to W. T. Kendall, in command of [the before-named] Goslin. They further deposed that Captain Daulby remained in possession of the island. The deponents then gave description of the guano, which they valued at fifteen dollars a ton.

Appendix No. 5.

CORRESPONDENCE OF THE STATE DEPARTMENT.

The papers before recited being on file, Mr. Appleton, Assistant Secretary of State, wrote, on the 7th of June, 1860, to W. T. Kendall. Mr. Appleton acknowledged Kendall's communication, and informed him that a letter had been addressed to the Department on the 14th ultimo by Patterson and Murguiendo, claiming to have taken possession of "Alta Vela" island, in latitude 17° 28′ 11″, longitude 71° 40′ 30″, under the guano act; and that at the date of their letter it was still in their possession and occupied under their authority by S. R. Kimball and crew of their schooner Boston. Mr. Appleton remarked that no evidence was furnished by Mr. Kendall of the quantity of guano upon the island, and no certificate of any respectable chemist as to its quality; and further, that since, from the name of the island, it must have been discovered by Spaniards, and from its position might be claimed as within the jurisdiction of the Dominican Republic, a compliance with the request to prescribe at that time the penalty of the bond was not deemed advisable.

Appendix No. 6.

W. T. Kendall replied to the Secretary of State on the 19th of June, 1860. This reply was accompanied by a copy of an analysis of guano made by a chemist, which showed that the guano found on the island contained 29.16 per cent. of phosphoric acid, and 70.84 per cent. of lime. Kendall insisted, in his reply, that he had already shown that there was a very large quantity of guano on the island, and that the island "lies entirely out of the jurisdiction of Hayti." He further stated that Haytien officers came upon the island while it was in charge of Kendall's men, and did not molest them, nor forbid them from taking away the guano, but left them in peaceable possession thereof. He denied a prior discovery by Patterson and Murguiendo. He alleged that one Captain Kimball, who was sailing for these parties, did indeed land upon the island some ten days after he, Kendall, had raised the American flag, and had dug enough to load his vessel. Kendall further insisted that the Secretary of State should prescribe the proper bonds for him, and allow him to go and take away the guano by proper authority.

Appendix No. 7.
Appendix No. 8.

William H. Trescott, Assistant Secretary of State, rejoined by letter to W. T. Kendall on the 21st of June, 1860. In this letter Mr. Trescott said, that in the absence of any further proof, the Department could do no more than refer Mr. Kendall to the letter from the Department of June 7th, and say that any information which Mr. Kendall chose to file in this Department would receive immediate attention.

Appendix No. 9.

W. T. Kendall wrote a letter to the Secretary of State on the 22d of June. 1860. In this letter Kendall insisted that he had clearly proved that his agent, Captain Richard Daulby, "did, on the 19th of April, 1860, take peaceable possession of the island called Altivela, an uninhabited place, without the most remote sign of ever having been inhabited;" also that upon this island Daulby discovered a large and rich deposit of guano, and that the island "lies entirely out of the jurisdiction of Hayti."

Appendix No. 10.

PATTERSON AND MURGUIENDO'S PROOFS.

We find next a letter of George W. Barry, in behalf of Patterson and Murguiendo, to the Department of State, written on the 16th of July, 1860, which letter was accompanied by an affidavit of S. R. Kimball, and also by a letter from Patterson and Murguiendo. Kimball, in his affidavit, relates the discovery as follows: That on the 23d day of February, 1860, he, then in command of the schooner Boston, of Baltimore, owned by Patterson and Murguiendo, and for whom he was acting as agent, took possession of the island of Alto Velo, in the name of the United States, in the presence of J. A. Miller, first mate, and Mathias Fuchs, steward of said schooner; that at the time of his taking possession of said island there were no inhabitants or habitations whatever thereon, or traces of any kind of there ever having been either on the island; that he left on said island a written notice in conformity to the guano act; that on the 23d of March following he returned again to said island, having left it for the purpose of chartering vessels to export the guano; that he was then (at the time of making the affidavit) in peaceable possession of the island, shipping guano from and working thereon.

Appendix No. 11.
Appendix No. 12.
Appendix No. 13.

A letter of Patterson and Murguiendo to the Secretary of State, January 1, 1861, is given in the appendix, in which letter they state that they obtained from the State Department a certificate, acknowledging their discoveries of the guano deposits on Alto Velo, under the guano act of 1856; that they had sent that paper to the island, and that they would like to have a duplicate to annex to a statement which they were preparing to be laid before the State Department, in view of their expulsion from the island.

Appendix No. 14.

A letter of the Secretary of State, the Honorable Jeremiah S. Black, to Pat-

Appendix No. 15. terson and Murguiendo, on the 2d day of January, 1861, appears in the appendix. Mr. Black wrote that as the certificate to which they referred in their letter merely attested the correctness of copies of original papers which they had before filed in the Department of State, and inasmuch as no papers of a prior date, relating to Alto Velo, had been received by the Department, it was not deemed necessary to issue a duplicate certificate for the purpose which they indicated.

THE EVICTION.

A memorial and papers in behalf of Patterson and Murguiendo were presented to the Secretary of State, Mr. Black, and filed in the Department on or about the 7th of January, 1861. Copies are in the appendix, with references as follows: A deposition of John A. Miller, (16;) a letter from John A. Miller to Captain Kimball, (17;) a deposition of Samuel R. Kimball, (18;) a memorial of Patterson and Murguiendo, filed in the State Department, bearing date January 8, 1861, (19;) a protest made by Captain S. R. Kimball before Jonathan Elliott, Commercial Agent of the United States at San Domingo, (20.) The memorial of Patterson and Murguiendo was accompanied by multifarious letters, given in the appendix, namely: A letter of General Juan Evertz to John A. Miller, October 23, 1860, (21;) the answer of J. A. Miller to General Juan Evertz, without date, (22;) Juan Evertz to Captain Miller, October 24, 1860, (23;) Felipe F. de Castro, Dominican Minister for Foreign Relations, to the United States Commercial Agent at St. Domingo, October 28, 1860. (24;) Jonathan Elliott, United States Commercial Agent, to John A. Miller, October 28, 1860, (25;) Juan Evertz, at St. Domingo, to United States Commercial Agent at St. Domingo, October 28, 1860, (26;) Jonathan Elliott, Commercial Agent, to the honorable Minister for Foreign Affairs of the Dominican Republic, October 29, 1860, (27;) S. R. Kimball to the United States Consul (commercial agent) at St. Domingo, November 15, 1860, (28;) Jonathan Elliott to S. R. Kimball, November 15, 1860, (29;) F. de Castro, Dominican Minister for Foreign Relations, to the United States Commercial Agent, November 19, 1860, (30;) Jonathan Elliott to the Minister for Foreign Relations, November 20, 1860, (31;) Jonathan Elliott to the Señor Comandante of the port of St. Domingo, November 28, 1860, (32;) Juan Evertz to Mr. Elliott, Commercial Agent, November 28, 1860, (33;) Señor Lavastida, Minister of War, charged with foreign relations, to the United States Commercial Agent, November 28, 1860, (34;) Jonathan Elliott, United States Commercial Agent, to the Minister for Foreign Affairs of the Dominican Republic, November 29, 1860, (35.)

The correspondence thus submitted by Patterson and Murguiendo admits of the following summary: Patterson and Murguiendo maintain that they complied with the provisions of the act of Congress, and gave notice to the Department of State; that at the time of the discovery and occupation of the island by the memorialists, the island was not in the possession or occupation of any other government, or of the citizens of any other government; that they remained in the occupation of the island, working and removing guano therefrom, from the 24th of March, 1860, to the 24th of October, 1860. On the 23d of October, 1860, the Dominican ship of war Merced, Juan Evertz commanding, appeared before the island, and sent ashore or delivered a letter, in which the com-

Appendix No. 21. mander said that his government was alarmed at the disagreeable advices that foreigners had violated the Dominican territory, invading the island of Alto Velo, which belongs to the legal jurisdiction of Azua, with the object of exporting guano that the said island encloses; that he was authorized, "invoking the right acknowledged by all civilized nations, to dislodge with the greatest brevity any foreigners that might be occupying that island, as well as the island of Beata." He required those intruders to leave Alto Velo within twenty-four hours.

Appendix No. 22. John A. Miller answered General Evertz in writing, and said that he (Miller) was in the employ of Captain S. R. Kimball, who was then in Jamaica. Miller informed Evertz that he had no vessels there to

ship himself and men from the island; that he was willing to submit to superior force, but asked the privilege of leaving one man on the island to take care of the property there. General Evertz replied, tendering the use of his own vessel for the embarcation of the party, but declined to grant permission to leave any person on the island. Patterson and Murguiendo, in their memorial, alleged that Evertz, on the 24th of October, 1860, landed fifty men, lowered the American flag, overturned the tents of the agents and laborers, destroyed their "materials," forced Miller and the laborers on board the Merced, and carried them prisoners to the city of St. Domingo.

Appendix x No. 23.

Appendix No. 24. The Dominican Minister for Foreign Affairs, on the 28th of October, 1860, wrote to the United States Commercial Agent at that place, that, having ordered a Dominican vessel of war to visit the islands of Beata and Alto Velo, they found twelve men engaged in extracting guano which was the property of the government of St. Domingo. While he insisted that he would have lawful right to try and punish these men, he nevertheless proposed to put them at the disposal of the Commercial Agent with all their effects, reserving to the government of St. Domingo the right to reclaim indemnity for the trespasses which had been committed. The United States Commercial Agent received Miller and the laborers with their "materials," in accordance with the proposal of the Dominican government; and the party seem thereafter to have been left entirely at liberty. Kimball, in behalf of the claimants, wrote from his schooner Alice Mowe, off the port of St. Domingo, to the Commercial Agent of the United States in that city. In that letter the writer complained that, at the time of their taking possession, the island was not in the exclusive possession of either government, as he knew it to have been "used by the citizens of both for many years as a fishing station." He stated that, nevertheless, he was ready to treat with either party who might establish a claim, to pay for what he had taken away. He added a disclaimer of any intention of trespassing upon the government, and offered to pay a fair rate for what guano had been removed, and to purchase what remained, as well as what might thereafter be discovered, if the government would give him back his property, and permission to occupy the island for that purpose. This offer was made, as he stated, "upon the supposition that they (the government) have a legal right to the island."

Appendix No. 28.

Appendix No. 29. The Commercial Agent's reply to Kimball was that all the men and all the articles that had been taken from the island of Alto Velo by order of the Dominican government had been subsequently placed at the disposal of the Commercial Agent, and they awaited Kimball's arrival. The Dominican Minister for Foreign Relations proposed in his letter to the agent that a friendly arrangement should be adopted, the basis of which should be indemnity to the Dominican government for the value taken, and, in that case, a waiver of all other reclamations for damages. The Commercial Agent's reply was that Captain Kimball desired to settle amicably with the Dominican government for the value of the guano which had been taken, and he gave an account of the quantity, namely, 1,033 tons, of the value of $14 a ton, less all the expenses of the transaction and market, and he proposed to enter into a contract with the Dominican government for the purchase of the guano remaining on the island if satisfactory terms could be agreed upon. A prolonged discussion occurred, in which the Dominican government stated its terms, offering to leave them to arbitration if they were found unsatisfactory; the negotiation failed, and Kimball, together with the laborers, returned to the United States.

Appendix No. 30.

Appendix No. 31.

THE SECRETARY OF STATE'S REPLY.

Mr. Black, Secretary of State, replied to Patterson and Murguiendo on the 14th of January, 1861. Mr. Black acknowledged the receipt of the memorial, referred to its contents, and said in reply thereto

Appendix No. 36.

that the government was entirely disposed to protect them (Patterson and Murguiendo) in the enjoyment of any rights which they might have legally acquired to the guano on that island. He added, however, that inasmuch as the Dominican government was understood to claim jurisdiction over Alto Velo—a claim which another applicant was informed in the preceding June might probably be asserted—on account of the position of the island, the Department of State deemed it proper, before taking other steps in the matter, to address a communication to its special agent, Mr. Cazneau, with instructions to ascertain from the Dominican government the grounds on which its claim to the island was based.

REFERENCE TO SPECIAL AGENT IN ST. DOMINGO.

Appendix No. 37. The Secretary, Mr. Black, sent a despatch to Mr. Cazneau on the 15th of January, 1861, by which Mr. Cazneau was instructed that he would at once, if he had not already done so, request the attention of the authorities to the transactions of which Patterson and Murguiendo complained, and would learn particularly the grounds upon which those authorities claim jurisdiction of the island, in order that the government of the United States might know what measures were necessary to protect the interests of its citizens in that quarter.

SPECIAL AGENT'S REPORT.

Appendix No. 38. Mr. Cazneau's reply to those instructions bears date of the 19th of February, 1861, and was received at the Department of State on the 31st of March, 1861, Mr. Seward having then become Secretary of State. The following is the substance of Mr. Cazneau's report:

"Altavela is a small desert cay, lying, according to some charts, more than five leagues, and, by the map of this island published by order of the government, somewhat less than that distance, to the southward of that 'border belt' which has been completely desolated by the wars between the Dominican and Haytien Republics. Neither government permits the citizens of the other to live on this frontier, and a long margin of the mainland nearest to Altavela cay is a depopulated waste; without settled inhabitants; without cultivation, and, in point of actual fact, without a government.

"The Dominican government claims this depopulated district, because it is within the line of the old Spanish colony, which now constitutes the territory of this republic. By a law of 1855, it is defined as *a portion of the province of Azua, together with the adjacent islets, Beata and Altavela, which are there named as dependencies of that province.* Except, however, in the descent of the war schooner Merced on the American guano diggers, last October, I cannot ascertain that the republic has ever exercised the sovereign duties of protection or government on either Beata or Altavela since it has been a nation. In discussing this point with the Minister of Foreign Affairs, I requested him to cite an instance in which a *de facto* jurisdiction had been extended over these outlying cays; but he was unable to go beyond the two days devoted to the capture of the American laborers, and the removal and destruction of their property by the Dominican forces.

"The neighboring island of Baeta has a scant supply of fresh water—of which Altavela is entirely destitute—and it is, therefore, occasionally occupied by the Haytien fishermen; but, so far as I can learn, Dominicans rarely, if ever, venture there.

"The Haytien authorities made a visit of inquiry to the Americans at Altavela, very soon after they commenced work, five months before any Dominican whatever seems to have approached the place. On being informed that an American guano company had taken possession of it under the same act of Con-

gress which protected another company at work on the similarly situated and not distant islet of Nevasa, the Haytien officer withdrew without offering them any molestation.

"The American explorers had, in their repeated visits to the cay, always found it desolate, unused, and, to all appearances, outside of that care and charge which is the usual evidence of settled jurisdiction with any recognized government, and they publicly entered upon its possession as a guano deposit within the scope and meaning of the act of Congress of August, 1856, 'to authorize protection to be given to citizens of the United States who may discover deposits of guano.'

"As the government of Hayti, which exercises the only visible jurisdiction in that neighborhood, and disputes with the Dominican Republic sovereignty over the entire coast opposite, had, after an official visit of inquiry, and with a full knowledge of their tenure of occupation, permitted the guano company to continue their business without remonstrance, our citizens were not inexcusable—as I remarked to the Dominican executive—in supposing themselves in justifiable possession of the cay. If there could be any doubt of the completeness of their right of occupation under the act of Congress before cited, they seemed entitled to consider themselves tenants-at-will of the government of Hayti, rather than trespassers on the soil and sovereignty of the Dominican Republic, which had never given them any intimation of its claim until the very day it sent a military expedition to dislodge them.

"When this occurred I did not fail to inquire of the Dominican authorities why they had permitted these citizens to remain on Altavela for seven consecutive months steadily at work, investing capital and labor, in opening a crude, unbroken guano field, and preparing it for extensive and profitable development, without warning them of the claim now put forth by their government; and why, instead of allowing them a calm and legal hearing, these men were carried away by a sudden military assault on their persons and flag, destroying much of their property, and bringing the parties to this city in an undefined captivity, uncertain whether they were to regard themselves as prisoners of war—though in a time of profound peace between their respective nations—or men to be tried as criminals, for some nameless and unexplained culpability. To these questions I was never able to obtain a lucid and satisfactory answer; but I am conscious that my remonstrances had the effect of deciding this government to abstain from following up the harsh measures initiated at Altavela."

PROCEEDINGS SUSPENDED.

Mr. Black, as attorney for Patterson and Murguiendo, frequently solicited the attention of the Secretary of State to their claim during the years 1861, '62, '63, '64, and '65. By direction of the President, Mr. Lincoln, the Secretary declined to give that attention, on the ground that a portion of the United States being in rebellion, Spain at the same time waging a war of invasion and conquest against the Republic of St. Domingo, and the Republic of Mexico being a theatre of European armed intervention, the time was unpropitious to prosecute the claim of Patterson and Murguiendo, however just it might be.

PROCEEDINGS IN 1866.

Appendix No. 39 and 40.

In January, 1866, Mr. Black, attorney for Patterson and Murguiendo, filed a bond conforming to the direction of the guano island law.

PROCEEDINGS SUSPENDED DURING NEGOTIATION FOR SAMANA.

The Republic of San Domingo, having expelled the Spanish intruders, was reorganized under the provisional administration of President Buenaventura Baez. That government was recognized by the President of the United States in his

annual message of 1865, and political relations were then for the first time formally established between the United States and the republic of San Dimingo. The administration of President Baez suddenly fell, however, before an insurrection in the year 1865; but the republic was again reorganized with a new constitution, and with General Cabral as provisional president. This government seemed to be established with considerable firmness in the summer of 1866. On the 18th of October in that year the government of San Domingo, confiding in the friendship of the United States, made a representation to the Secretary of State that war was existing between Spain and the allied republics of Peru, Chili, Bolivia, and Ecuador. The Dominican government represented that it desired to maintain neutrality, but that it was exposed to violations of its sovereignty by the belligerents, which it would not have the ability to repress, and appealed to the United States for guarantees of protection. In a subsequent note of the 8th of November, that government requested a loan of money. Under these circumstances the United States opened a negotiation in the month of January, 1867, with the Dominican government, concerning a cession of the Peninsula of Samana for an equivalent of money and arms, which, being attended by the moral influence of the United States, it was believed would enable the Dominican government to maintain its independence. This negotiation failed during the summer of 1867. While it continued, and while hopes were entertained of its success, the Department of State, on the grounds of inexpediency, declined the urgent appeals of the claimants, Patterson and Murguiendo, by their attorney, Mr. Black, to take any proceedings upon their claim to the island of Alto Velo.

REFERENCE OF CLAIM TO EXAMINER OF CLAIMS.

The special reason for delay, before set forth, having ceased, the Secretary of State, in the month of June last, referred the claim of Patterson and Murguiendo for examination to the Bureau of Claims.

ADVERSE REPORT OF EXAMINER.

On the 17th of June, 1867, the Examiner of Claims submitted a report. The Examiner's opinion upon the case was, in substance, that the papers submitted were not conclusive upon the point that the island of Alto Velo, at the time of the taking possession thereof by Patterson and Murguiendo, was not within the lawful jurisdiction of any other government; that the oath of the claimants upon that point was expressed in the way of recital and introduction, and did not establish the important fact required. The Examiner further showed that the oath of the claimants to that effect was not adequately sustained by the statements of Captain Kimball and Captain Miller, who were alleged to have discovered the island. The Examiner dwelt upon the statement of Captain Miller that the Haytiens had been for years the sole occupants of the island of Beata, which is adjacent to Alto Velo. He dwelt also upon the fact that Captain Kimball stated in his deposition that he knew the island of Alto Velo was not claimed exclusively by either of the governments, to wit, Hayti or San Domingo, as he knew it to have been used by the citizens of both for many years as a fishing station. The Examiner insisted that the act of Congress requires that the claimants shall conclusively negative any lawful foreign jurisdiction as a condition of the taking possession of an island upon the ground of the discovery of guano thereupon. He insisted that such jurisdiction may exist in a foreign government, though actual possession may not have been taken; or, if taken, may not have been maintained, as is usually required to be established to maintain the claim of private property under municipal law; reciting a judicial decision of Lord Stowell, in which that great judge showed how fallacious would be an attempt to deprive the United States of islands in the open sea, off the mouth of the Mississippi, upon the ground that they were

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desert, uninhabited, and unoccupied. The Examiner expressed the opinion that the controlling question in regard to jurisdiction over islands situated like that of Alto Velo is this: Are such adjacent islands necessary to the security and protection of the main land, so that their occupation by a hostile power would be dangerous? The Examiner further insisted that the principle which constitutes the basis of the law is that a nation which possesses the mainland has a maritime jurisdiction which extends into the sea to the utmost range of a cannon shot, then understood to be three miles; that the principle of maritime jurisdiction, however, is not limited by the range of cannon shot, but by the extent of exposure to danger by reason of the foreign occupation of adjacent islands. The Examiner introduced, by way of illustration, the island of Nantucket, lying thirty miles outside of the coast of the United States. He asked whether, if that island had hitherto remained uninhabited and unoccupied by the government, or any person under its authority, it would be tolerated that a foreign power should seize and occupy it by force. The Examiner further showed that it was unreasonable to infer acquiescence by the Dominican government in the seizure and occupation of the island from the fact that they delayed to give notice of their jurisdiction for a period of seven months.

Upon this very general review of the subject, the Examiner reported that in his opinion the case was not one in which the government of the United States could justly sustain the claimants' demand for damages from the Dominican government.

CLAIM DISALLOWED.

The Examiner's report was laid before the President at a meeting of the Heads of Departments on the 18th of July, 1867, and upon the recommendation of the Secretary of State, without being specially read or considered in detail, it was accepted. A memorandum of that proceeding was filed in the Department, and a copy thereof was furnished to Mr. Black. It was understood by the Secretary of State that the Examiner's report and conclusions would be made known and and open to the claimants.

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PATTERSON AND MURGUIENDO EXCEPT AGAINST THE DECISION.

On the 22d of July, 1867, Mr. Black addressed a letter to the President, in which he discussed the claim. He submitted a brief, and requested the President only to read it, and then do in his judgment what was fit and proper. Mr. Black stated that the injuries of which the parties complained were committed more than seven years ago; that they demanded the intervention of their government immediately afterwards; they however consented not to press the subject at the time, lest it might aggravate the troubles of the country, but that this was with the distinct understanding that the delay should not be charged upon them or allowed to affect their rights. Mr. Black stated that since the war (of the rebellion) the Department of State exhibited so strong an inclination to do nothing, that the sufferers were compelled at last to think of looking elsewhere for a remedy. He averred that the wrong which they had suffered is so grievous, its illegality is so palpable, and the faith of the United States is so solemnly pledged to restore their property to Patterson and Murguiendo, that their final success in the pursuit of justice could hardly be doubted; that the Department of State had given no reason for its inactivity; that they could only wonder what it meant. Mr. Black averred that Patterson and Murguiendo had embarked their all in their enterprise; it was an enterprise not only lawful but laudable; that they went into it under a solemn promise of protection; that they were shamefully robbed by men who had no color of right, and who acted without a show of excuse; that they were utterly ruined in their

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business and totally broken up. Passing from the wrongs of those individual citizens, Mr. Black insisted that the public and general aspects of the case ought to be considered; and that when the citizens of the United States discover a guana deposit on an uninhabited island, not within the jurisdiction of any other government, and the discoverer takes the proper steps under the act of 1856, such island becomes annexed to the Union, and part of the country; that to expel the American occupant under such circumstances is like any other invasion of our territory; to submit is to acknowledge our inability or our unwillingness to protect our own people; that the insult to our flag is as gross as though it had been forcibly hauled down from the mast of an American ship, and as if the ship had been forcibly appropriated by a band of pirates. Mr. Black insisted that the President would find that all the conditions which were required by the law to create the American title had been met in this case of Patterson and Murguiendo; that Alto Velo is a guano island; that a deposit of guano was discovered by American mariners; that the island was wholly unoccupied; it was not within the lawful jurisdiction of any foreign government, being situated out on the high sea; that it was open to the first taker; it was in fact taken by the claimants; the claimants gave the proper notice to the Department of State, and fulfilled all the other conditions of the law; that they continued in possession seven months with the sanction of their own government, and the tacit consent of all other governments; that after all this they were forcibly detruded, and without a pretence of lawful authority; that the expulsion was an outrage by itself; that the papers show aggravations; that the agents and workmen of the claimants were carried to the island of St. Domingo, and kept in prison for twenty-one days. Mr. Black then proceeded to define the nature of his demand, which was that the President should send a vessel to Alto Vélo to put Patterson and Murguiendo into possession of it; that this would be "the short and simple way of dealing with the business;" that negotiation would be out of place until the parties were put *in statu quo;* that repossession under such circumstances is not only required by public law, and in general principle, as the first step, but it is made the duty of the government in the case by an express statute; that the act of 1856 requires the naval force of the United States to be used in such case; that the right or the duty to repel force directed against a possession always includes the right to retake it after it has been unlawfully seized.

Mr. Black's letter was accompanied by a brief. This brief reviews and reasserts the case of Patterson and Murguiendo; avers their discovery of deposits of guano on Alto Velo; gives its latitude and longitude; asserts that the island lies fifteen or twenty miles beyond the most extreme southern part of the Dominican territory; that when the discovery was made the island was totally barren and desolate, and it had been previously altogether uninhabited and unclaimed by any state, people, or government, and recites their taking possession on the 18th of August, 1856, in the name of the United States; avers that they filed notice in the State Department, and entered into the required bond; avers that the discovery of guano was made by citizens of the United States; reiterates that those discoverers took and kept peaceable possession in the name of the United States; that it was not taken out of the possession of any other government, occupied by the citizens of any other government, or within the lawful jurisdiction of any other government; that it was therefore precisely such an island as the law requires the President to regard as appertaining to the United States, and to protect accordingly; that after the detrusion of the Americans from the island, and while the employés of Messrs. Patterson and Murguiendo were detained as captives at St. Domingo, Captain Kimball published a formal and solemn protest; and recites in detail the substance of that protest. The brief refers to the fact that on the 18th of October, 1860, five days before the act of eviction, Mr. Cazneau, special agent of the United States,

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officially advised the United States consul at San Juan, Port Rico, of the intention of the Dominican government to attack the inhabitants of Alto Velo; that the last-mentioned consul gave thereupon a warning to the United States consul at St. Thomas; that both of those officers regarded the contemplated act as so clearly a deed of naked spoliation that they used their exertions to have an American man-of-war at Alto Velo in time to oppose force with force.

Mr. Black, on the 7th day of August, 1867, again addressed the President. In this paper he refers to the memorandum of the Department of State concerning the island of Alto Velo; notices the fact that the memorandum declares that the President accepted the conclusions of the report made by the Bureau of Claims; protests that if this statement is allowed to pass without notice, it may be used hereafter as evidence that the President concurred in the effort to justify the outrage committed on the owners of the island, and in the refusal or neglect of this government to give them the redress to which they are legally entitled. Mr. Black further remarks upon the memorandum that the "thing," as he calls it, does not purport to be an executive order; that it is not signed or otherwise authenticated; that it is not a record or a part of a record; that it does not appear how, when, or where it was made; that the memorandum represents the President as accepting the conclusions of a report which was not given, and a conclusion of it which was not stated; that if the President had ordered the claim of the owners to be dismissed or to be enforced, and had recorded his judgment either way, it would have been at least intelligible, but that a statement that some unknown internal effect was produced upon his mind under the influence of a report not given, is senseless when produced as evidence of an executive act; that the memorandum does not say what was the subject-matter of the report; it concerned the island of Alto Velo, but it did not discuss the geography, the political jurisdiction, the commercial products of it, nor did it investigate the right of the United States owners; that if it was upon the latter question, did it conclude that the owners might be plundered by foreigners, or that they ought to be protected according to law? Mr. Black proceeds to say that he is aware that the Solicitor of the State Department (Examiner) was engaged for months in getting up a paper on the case; that by the present nomenclature of the Department, the Solicitor may, for aught he (Mr. Black) knows, be a Bureau of Claims; that he once saw an unfinished report in the Solicitor's hands, but that he had reached no definite conclusion; that if a loose memorandum can commit the President to a report which is not identified or known, it may be tacked to any paper of that description, either before or afterwards; that even the vague and indefinite statement of the memorandum that the President accepted some conclusion of some report concerning the island of Alto Velo is not true in point of fact. Mr. Black brings no charges of wilful falsehood against anybody, nor does he know the nature of the misapprehension which caused the memorandum to be made; but he insists that the fact is not truly stated. His contradiction rests upon these grounds: First, that the memorandum says that the President accepted the conclusion on the 18th of July, but that only one day afterwards, namely, on the 19th, Mr. Black presented his memorial to the President and explained it somewhat at large; that the President had manifestly never heard of it before. Second, that after Mr. Black got this memorandum he told the President of it, and the President said emphatically that it never could have been officially before him so as to make any impression upon his mind. Third, that it is morally impossible that the President, with the facts of the case before him, could have done otherwise than order the restitution of the island to the owners; that the President is wholly incapable of sanctioning, directly or indirectly, a naked robbery like that. Mr. Black further remarks that he forbears to mention some other occurrences connected with this business; that he has said enough to show the President the necessity of his personal intervention to save the just rights of the parties; the

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records of the State Department have shown for seven years that the island was uninhabited, unoccupied, lying in the open sea far beyond the territorial waters of Dominica; that Patterson and Murguiendo discovered it as a guano island, took possession, gave notice according to the act of Congress, and kept possession of it for seven months, when their employés and vessels were forcibly driven away and their business broken up.

RE-EXAMINATION OF THE CLAIM.

These papers being referred by the President, the Secretary of State proceeded to re-examine the case with the aids which the claimants and their attorney, Mr. Black, afforded.

DIPLOMATIC CLAIM INEXPEDIENT.

The political condition of the Republic of St. Domingo has not essentially improved. It is still feeble, destitute of resources and credit, and a theatre of military revolution. A special envoy is now here soliciting financial and moral assistance.

The Secretary of State adheres to the opinion that even if the justice of the claim of Patterson and Murguiendo were clearly and conclusively established, yet it would be inexpedient to urge it by diplomatic representation, under existing circumstances and at the present time.

THE CLAIMANTS ACQUIESCE IN THIS DECISION.

It has already appeared that Patterson and Murguiendo now distinctly disclaim any expectation or desire that the Executive of the United States shall apply to the Republic of St. Domingo for indemnity, or any other form of redress sounding in damages in their behalf.

CASE OF PATTERSON AND MURGUIENDO UPON ITS MERITS.

This conclusion, however, will not prevent the Secretary from considering the merits of the claim; but, insomuch as diplomatic proceedings are now out of the question, we must first inquire what form of remedy, if any, remains within the constitutional sphere of the Executive Department for the injuries of Patterson and Murguiendo if their claim shall be approved. There is no misunderstanding of the claimants upon this point. As citizens of the United States, they distinctly inform us that the island of Alto Velo is now in a possession and occupation adverse to their claim. What they now insist upon is that the President send an armed naval force to Alto Velo to eject the present occupants, and to put Patterson and Murguiendo, citizens of the United States, into possession of the island. "This," their attorney says, "is the short and simple way of dealing with the business; negotiations will be out of place until the parties are *in statu quo*."

ADVERSE POSSESSION.

Who are the adverse occupants of Alto Velo? We learn from official correspondence of the Department, which now for the first time arrests attention.

On the 19th of February, 1866, twenty-five days after Patterson and Murguiendo filed their bond, Henry G. Root, of New York, addressed a letter to the Secretary of State, in which he asked to be informed what action, if any, was taken in a matter that was brought to the notice of the government some five or six years before, "regarding," as he expressed himself, "our right to work and remove guano from the island of Alta Vela." Mr. Root stated that St. Domingo laid some claim to the guano found there originally by an American captain, under the auspices of a Baltimore, Maryland, house, which claim of St. Domingo was contested by such house, and finally, as he (Mr. Root) believed, was referred to the Department of State for adjudication, and

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was in abeyance, after some diplomatic correspondence had taken place on the subject between the two countries, at the breaking out of the rebellion. Mr. Root assigned reasons for making those inquiries, namely, his understanding that the island had not been worked for some years, and, its deposit being peculiarly rich, he (Mr. Root) purposed to send one or more vessels there to bring home cargoes of said guano deposit if he could have the assurance of his right to it, and of government protection in the prosecution of the work. He stated that he had not made himself familiar with the pre-emption right, if any, of nations to discoverers of guano deposits, but he believed that the flag that discovers has the right to it exclusively.

Appendix No. 47. The Secretary of State replied to Mr. Root on the 21st February. The Secretary informed Mr. Root in substance that there already were two parties claiming rights as discoverers of Alto Velo, and that the right is denied by St. Domingo, whose authorities ejected them, (the discoverers;) that the claim of the discoverers at the State Department, referred to by Mr. Root, was made for damages covering the whole value of the guano on the island, and that it was still under consideration; that if either of the discoverers should satisfy this government that his claim is just, and if this government should require indemnity from St. Domingo, that republic would seem, by making payment, to acquire a right to retain the guano if it did not originally possess it; that under these circumstances the Secretary could not encourage any citizens of the United States in resorting to the island unless they should obtain the consent of the authorities of St. Domingo; and as Alto Velo lies opposite to the boundary understood to be in dispute between that power and Hayti, it would be a reasonable precaution to seek the consent of Hayti also.

After the Examiner's report had been made and adopted, as before mentioned, Thomas R. Webster & Co., of New York, wrote to the Secretary of State a letter, on the 12th of September, 1867, in substance as follows:

Appendix No 48. That they had noticed a paragraph in the morning newspaper relative to a claim before the State Department of a Baltimore firm, against the government of St. Domingo for having expelled them from the island of Alto Velo. The writers proceeded to state, inaccurately and untruly, that in a letter written on the 26th of February, 1866, [21st of February,] in reply to a letter from H. J. Root, the Secretary wrote that it would be advisable for him to apply to the government of St. Domingo for the right to remove guano from Alto Velo. They then proceeded to say that last year they [Thomas R. Webster & Co.] obtained consent of the government of St. Domingo, and under date of April 24, 1867, informed the Secretary of State of that fact. [No such letter as thus referred to is now found in the State Department.] Thomas R. Webster & Co. then proceed to say that they have already expended upwards of fifty thousand dollars in their enterprise, and have a large force of men at work; that many cargoes have already arrived at northern ports, and they are developing the resources of the island as rapidly as good judgment dictates. They added that they had done this feeling satisfied that their government would acknowledge their right, particularly after having informed them how to obtain it.

Appendix No. 49. To this letter the Secretary of State replied on the 14th of September, correcting T. R. Webster & Co.'s misconstruction and misstatements of his letter of the 21st of February, 1866, and adding that the design and effect of his letter of the 21st of February were to warn all persons to whose knowledge that letter might come that they would deal with the subject at their peril; and that they would acquire no rights which would not be subordinate to those which the other claimants might succeed in establishing; that the rights of those claimants had not yet been determined; that if the claimants (meaning Patterson and Murguiendo, or Kendall) should be found to have acquired the exclusive right to dig guano, under the law regulating the subject, the subsequent grant to Webster & Co. by the Dominican government would

not affect it; and this government would be under no obligation to aid them in enforcing, as against a foreign state, any rights which might flow from a contract with that state, into which they (Webster & Co.) had voluntarily entered.

Thus it was ascertained that Thomas R. Webster & Co., citizens of the United States, are now actually in possession and occupation of the island of Alto Velo, adversely to Patterson and Murguiendo, other citizens of the United States, and that the former are peaceably engaged, under the authority of the government of St. Domingo, in removing whatever guano remains on the island. The forcible intervention which the claimants solicit necessarily involves an executive decision that the claim of Patterson and Murguiendo is superior in law to the claim of Thomas R. Webster & Co. The conflict is between citizens of the United States. It arises under the laws of the United States and the laws of nations. The contending parties are amenable not to the Executive Department but to the legal tribunals of the United States, and those tribunals are expressly invested with jurisdiction to decide the controversy, and clothed with ample authority to carry their judgment into execution. Under these circumstances, it would be presumptuous on the part of the Secretary of State to recommend the employment of armed force by the President to determine a purely legal controversy. If it shall be insisted, on the other hand, that the Republic of St. Domingo is the responsible party, and not Thomas R. Webster & Co., the Secretary of State must answer that the controversy is only incidentally a national one, while really it involves nothing more than a pecuniary question of lawful right between contending citizens of the United States; that the courts of law are competent and obliged, on due application, to investigate and decide it, while the question whether the Executive Department shall intervene is one which the Constitution and laws refer to the discretion of the President, and that discretion is to be exercised with a principal view not to the interests of individual citizens, but to the rights, interests, and honor of the United States.

Nevertheless, the Secretary will proceed in his examination of the subject, upon the supposition that this difficulty of conflicting claims of Patterson and Murguiendo and Thomas R. Webster & Co. has been overcome and removed. It seems quite clear that the Executive Department could not lawfully have instituted any proceedings whatever for the relief of the claimants until after they had filed the bond prescribed by law. Their bond bears date of March 13, 1861, but it was not presented to the Department and filed therein until the 25th of January, 1866. The eviction of Patterson and Murguiendo from the island of Alto Velo, or their "detrusion," as they call that proceeding, occurred and was complete not only before the day when they filed their bond, but even before the day on which it purports to have been executed. The Secretary might be unwilling to insist peremptorily on this position, but he thinks it his duty to stand upon it until a different construction of the act shall be pronounced by the courts or declared by Congress.

The question remains whether, when Patterson and Murguiendo took peaceable possession of Alto Velo, that island was not in the lawful jurisdiction of some foreign country.

The Secretary of State will not, in the first instance, go backward beyond the political era of the Republic of St. Domingo. That Republic declared and achieved its independence from the Republic of Hayti on the 27th of February, 1844. It was subsequently recognized by Great Britain and France and other nations, as well as the Republic of Hayti, and is now recognized by and holds treaty relations with the United States. It adopted and proclaimed a national constitution on the 18th day of November, 1844. What the constitution declared in regard to territory is, that the ancient Spanish part of the island of St. Domingo, with the "adjacent islands," form the territory of the Dominican Republic; that the boundaries of the Dominican Republic are the same which divided the Spanish part of the island from the French part, as fixed in the year

1793; that the territory of the republic is divided into five provinces, Compostela de Azua, Santo Domingo, Santa Cruz del Seybo, La Conception de la Vega, and Santiago de los Caballeros; that these provinces shall be divided into communes, whose number and distribution shall be regulated by law, and that the city of St. Domingo shall be the capital of the republic.

It has been already seen, by the report of Mr. Cazneau, that the islands of Beata and Alto Velo were, by a law of the Republic of St. Domingo passed in 1855, named and described as dependencies of the province of Azua.

The laws of the Dominican republic on the subject referred to are two—one passed in 1844, the other in 1854.

Extract from the law of 1844.

"ARTICLE 2. The province of Compostela de Azua is divided into nine communes, namely, Azua, (the capital of the province,) Neyba, San Juan, Hincha, Las Matas de Farfan, Banica, Caobas, S. Rafael, and S. Miguel. The military station of Baraona will be attached to the commune of Azua, as the nearest, and Petitru to that of Neyba. The adjacent islands depending on this province are Beata and Alta Vela."—(Appendix No. 52.)

Extract from the law of 1854.

"ARTICLE 4. The province of Compostela de Azua is divided into the following communes: Azua, (capital of the province,) Neyba, San Juan, Las Matas, Banica, Hincha, San Rafael, San Miguel, and Caobas. The military post of Barahona will depend upon the commune of Neyba. The adjacent islands depending on this province are Beata and Alta Vela."—(Appendix No. 53.)

A treaty of peace between France and Spain was concluded at Aranjuez on the 3d of June, 1777. It is historically known that the French and Spanish provinces in the island of Hayti acquiesced in that boundary line which has always been understood to have been established in that treaty, which boundary is the same with the boundary of 1793, referred to and adopted, as before mentioned, in the constitution of 1844 of the Republic of St. Domingo. The present constitution of the Republic of St. Domingo was adopted on the 26th of September, 1866, in the twenty-third year of the independence, and in the fourth year of the restoration of that republic after its violent overthrow by Spain. The constitution declares that the republic embraces all that has been before known as constituting the territory of the republic, namely, the Spanish part of St. Domingo and its adjacent islands; it declares that the boundary line which separates its territory from Hayti is the same as agreed upon between France and Spain, in the treaty of Aranjuez, on the 3d of June, 1777. The several divisions are continued as in the constitution of 1844, including the province of Azua.

The boundary line thus fixed in 1777, between the French and Spanish provinces and republics, has been delineated on every known map of the island of Hayti since the year 1777. It begins at the river Dajabon, in Mancenilla bay, on the north coast of Hayti, and is accurately marked by monuments along the course of rivers, and mountain summits across the whole island to the mouth of the river Pedernales, or Des Anses-à-Pitre, on the southern coast. The boundary line nowhere approaches the island of Beata nearer than thirty-four miles, or the island of Alto Velo nearer than thirty miles.

The claim of jurisdiction over Alto Velo thus made by the Republic of St. Domingo in its constitution and laws seems to bear the test of geographical inquiry.

REPORT OF THE UNITED STATES COAST SURVEY.

"*Description.*—The mountains of Bauruco lie near the middle of the southern coast of the island of Hayti. They rise to a height of 2,400 feet, and terminate at Beata Point, or Little Cape Mongon, the southern extreme of Hayti."

"*Beata Island.*—The north point of Beata island bears west by north four miles from Beata Point. It is about five miles long, from north to south, two miles broad, mostly covered with brushwood, and from fifty to eighty feet high. The southern part is the most elevated; the north end terminates in a long, low point, and not far from it there is a solitary hut. The west side trends about north by east half east, and is bold and steep-to. Off some parts of this side there is no bottom with 136 fathoms of line, at three-quarters of a mile from the shore; and off others a depth of 20 fathoms, nearly a mile distant. From the southwest point a ledge stretches off some distance in that direction, and there are only four fathoms at three cables' length off. The east side is very steep, but the north and northeast sides are connected to Beata Point by a shallow white bank, on which the greatest depth is reported to be three fathoms. North by east of the island there is a breaker. Good anchorage will be found in from seven to nine fathoms water at about half a mile from the western shore of the island. This anchorage is exposed to the west, but the trade wind here invariably blows home."

"*Alto Velo.*—Alto Velo lies southwest half west 6¼ miles from the southwest part of Beata, and about 15 miles from Beata Point. It is three-quarters of a mile long in a northeast by east and southwest by west direction, and half a mile wide, and is almost entirely composed of a remarkable bell-shaped hill, the summit of which is 500 feet above the sea. At three-quarters of a mile from the north side there is a small, low, flat, black rock, and a coral bank of soundings, varying from 15 to 18 fathoms, stretches off a mile from the southeast side. Vessels bound either east or west will find the hill a most valuable point of departure. The position of Alto Velo was accurately determined by Captain R. Owen, R. N., who places the summit of the hill in latitude 17° 28′ 50″ north, and longitude 71° 39′ 44″ west."

"Los Frailes, or Friars' Rock, lies north by west three-quarters west, 9¼ miles from Alto Velo; west 10 miles from the north end of Beata. It is about half a cable in extent, and thirty feet high, and at the distance has the appearance of a cluster of sharp-peaked, rugged rocks, with white tops, (the effect of birds' dung;) hence the name."

"The channel between Alto Velo and Beata is quite clear; but it will be prudent to keep outside all. The channel between Beata and Beata Point is navigable for steamers, but they must be of light draught, for, as we have said above, there is a depth of only three fathoms, and the swell is generally very heavy." (See Plate No. I.)

It is thus seen that Beata island is distant only four miles from Beata Point, and that Alto Velo, instead of being 20, or 15, or 10 miles beyond the extreme southern point of Dominican territory, as the claimants contend, or five leagues, as supposed by Mr. Cazneau in his report, is in fact only 15 miles from Cape Beata, and only 6¼ miles from the southwest part of Beata island. Alto Velo being 500 feet high, is in full view, not only from the island of Beata, but even from Beata Point. The distance from the island of Beata to Alto Velo being 6¼ miles, exceeds by only 1,040 yards the modern range of cannon shot. It is worthy of remark, also, that although the channel between the island of Beata and Alto Velo is quite clear, yet it is so imperfect that it is deemed prudent by navigators to keep entirely outside of both. The depopulation and desolation of the province of Azua, which have occurred in the frequent wars between the States of Hayti and St. Domingo, may indeed have extended over that part of the province of Azua which lies nearest the boundary line; but those wars, nevertheless, were not waged for a contested boundary, but were national wars on the part of Hayti for conquest—on the part of St. Domingo for self-defence and independence. The Secretary does not think that the suspension or absence of lawful authority, or of *de facto* occupation by the Republic of St. Domingo, affects the question. Sovereign States, whether insular or continental, acquire territory

by discovery, by purchase, by conquest, or by voluntary annexation. Occupation or demonstration of power *de facto* in every minute part of a country is not necessary to establish or maintain a title which has been lawfully acquired by any of the processes named. When territory has been so acquired it devolves upon new claimants to show that it has been distinctly conquered and held adversely, surrendered, abandoned, or conveyed. It is only upon this principle that the United States at present retain a long range of islands which extends through 45 degrees of latitude in the Pacific ocean, not to speak of many reefs, keys, and islands in the Atlantic ocean.

In Playfair's Geography, vol. 6, page 624, we read: "Near the coast of St. Domingo are several islands, of which the following are most considerable." After enumerating and particularly describing Tortugo as having been always unsettled and unoccupied, Gonaive as occupied, and Navazza as desert, and Cow's island as uninhabited and frequented by pirates, and also the island St. Louis, he comes to Beata, which the author describes thus: "La Beata is an island opposite to Cape Mongon, [Cape Beata.] It is nearly two leagues and a half from east to west, one league wide, and three-fourths of a league from land. The soil is good, and was once in a state of cultivation. Till the fall of St. Domingo it was the great resort of French privateers."

In Alcedo's Geographical and Historical Dictionary of America and the West Indies we find this account of the city and province of Azua: "Azua or Azuca, a town of the island and government of St. Domingo, settled by the Adelantado Velazquez in 1504. It was called Compostela, from the Comendador Gallego, who had here an inheritance. This name, however, it afterwards lost, and took that of Azua, which it held in the time of the Indians. It is very fertile in sugar-canes, from which much sugar is made. In this district are also some mines of gold, which were formerly worked, but are at present abandoned. It has a very good port on the South sea, and is twenty-four leagues from the capital of St. Domingo." The author also refers to Beata: "Cape Beata, a point of the island of St. Domingo, on the south coast, and running a great way into the sea. It is eighty-five leagues from the city of St. Domingo, longitude 71° 18′, latitude 17° 42′. Beata, a small island close to the south coast of the island of St. Domingo, and opposite the point of its name."

In the Histoire d'Haiti, vol. 1, page 268, Madiou tells us that during the French occupation of the Spanish part of the island of St. Domingo, the island of Beata was made into a canton, and that as such canton it had the boundaries of the ancient province or quartier; and that the island of Beata, as such canton, was attached for purposes of criminal jurisdiction to the canton of Neybe.

The discovery of guano on the island of Alto Velo, although one of the fundamental conditions for moving the government of the United States to secure temporary possession of the island, can have no effect to disturb the lawful rights of the republic of St. Domingo. That republic, if it had lawful jurisdiction over the island of Alto Velo, could not lose it by failing to appropriate, or even by failing to discover, deposits of guano. Indeed, it is only the commerce in guano that is modern. The article itself was found in Peru and adjacent islands in use as a fertilizer when these regions were conquered by Pizarro. Guano came into use as an article of commerce in 1839. Certainly the United States do not forfeit by non-use the coal, iron, copper, and gold which are reported as being so profusely distributed throughout the islands and main land of Alaska.

The title of St. Domingo to the island of Alto Velo has been found by the Secretary of State to bear the test of historical research. Christopher Columbus on the 17th of April, 1492, stipulated certain terms with the King and Queen of Spain concerning the hoped-for fruits of the great enterprise which he had projected: First, that he should have, with perpetual succession, the office of admiral in all *islands and continents* which he might discover or acquire on the ocean; second, that he should be viceroy and governor general, under these

monarchs, of all said islands and continents; third, he reserved to himself one-tenth, deducting expenses, of all pearls, precious stones, gold, silver, spices, and all other articles and merchandise, in whatever manner found, bought, bartered, or gained within his admiralty; fourth, he was to have sole jurisdiction, subordinate to the government of Spain, in all causes and disputes arising out of traffic between the countries to be discovered and Spain; fifth, the right to contribute an eighth part of the expenses—which contribution he made. These stipulations are still in existence, bearing the signatures of Ferdinand and Isabella, (Navaraete, vol. 2, p. 7; Irving's Columbus, vol. 3, p. 114.) It was in pursuance of this contract that Columbus took formal possession of St. Salvador, his first discovery in the West Indies, on the 12th of October, 1492. It was in pursuance of that same contract that he afterwards took possession of the island of Cuba in the name of his sovereign, and it was in pursuance of the same contract that he afterwards entered the harbor on the west end of the island of Hayti, on the 6th of December, 1492, and named it St. Nicholas. In pursuance of the same contract, he raised a cross on the 12th of December, which cross is still seen in the cathedral of St. Domingo. In pursuance of the same contract he built a fort, La Navidad, on the 4th of January, 1493, and founded a city of that name. While executing the same contract, he afterwards discovered and named the promontory of Monte Christo, the Rio del Ora, or Santiago, and the Golfo de las Flechas, now known as the Gulf of Samana. When Columbus, returning from his first voyage, arrived at Valparaiso, and related his discoveries to the King of Portugal, that King set up a pretence that, by virtue of an existing papal bull, and of previous capitulations between the sovereigns of Castile and Portugal, the islands and continents which Columbus had thus discovered would of right inure to Portugal, and the King accordingly set on foot an expedition to seize and occupy them. (Irving's Columbus, vol. 3, p. 257.) Having arrived at Palos, in Spain, Columbus despatched a letter to his sovereigns announcing his discoveries. The letter was acknowledged by a reply addressed to him with the title of "Don Christopher Columbus, our admiral of the ocean sea, and viceroy, and governor of the islands discovered in the Indies." On going to Barcelona, in April, 1493, Columbus gave his sovereigns a minute account of his voyages, and a description of the islands he had discovered. He displayed specimens of their animal, vegetable, and mineral productions, and exhibited natives of the newly discovered countries. He pronounced all these mere harbingers of greater discoveries yet to be made, which would add realms of incalculable wealth to the dominion of their Majesties, and whole millions of proselytes to the true faith. They assigned to him a coat of arms, in which the castle and lion were quartered with his proper bearings, which were a group of islands surrounded by waves, with the motto, "Columbus gave a new world to Castile and Leon." (Irving's Columbus, vol. 3, pp. 268, 274.)

The conflicting pretensions of Spain and Portugal to the regions discovered by Columbus were referred by them to Pope Alexander VI, who issued a bull in which he drew a line of demarcation between the territories of Spain and Portugal, namely, an ideal line drawn from the north to the south pole, one hundred leagues to the west of the Azores and the Cape de Verd islands. All land discovered by the Spanish navigators to the west of the line which had not been taken possession of by any power before the previous Christmas, was to belong to the Spanish crown. This line was, on the 7th of June, 1494, by capitulation between the Kings of Spain and Portugal, moved to 370 leagues west of the Cape de Verd islands. So promptly and so decidedly was settled the greatest question of title and boundary which the world has ever known. (Irving's Columbus, vol. 3, page 300.)

Under this papal bull the Spanish monarch hastened to prepare for new and further discoveries. He established an office of Indian affairs and custom-house at Seville, with a corresponding office in St. Domingo; and the Crown assumed

all the expenses of the colony of St. Domingo, and was to receive all the emoluments. Thus provided, besides being intrusted with the royal seals, and authority to use the name of their Majesties in letters patent and commissions within the boundaries of his jurisdiction, Columbus proceeded on his second voyage. On his way out he discovered and took possession of the islands of Dominica, Guadaloupe, Antigua, St. Martin, Porto Rico, and others of the Caribbean islands. He arrived at his former harbor and city of La Navidad on the 27th of November, 1493. His fortress was demolished, but he promptly repaired it, founded the city of Isabella, and distributed military forces throughout the island.

After these proceedings he visited Cuba and Dominica, and returning from the latter island to Hayti, he saw on the 20th of August, 1494, and gave name to Cape San Miguel, now known as Cape Tiburon, the southern part of the island of Hayti. Here the natives recognized and saluted him by his title of admiral. At the end of that month, according to the account which he rendered to his sovereign, he anchored at a small island, or rather a rock, which rises singly out of the sea opposite to a long cape stretching southward from the centre of the island, to which promontory he gave the name of Cape Beata. The rock at which he anchored had an appearance, at a distance, of a tall ship under sail, from which circumstance the admiral called it Alto Velo. Several seamen were ordered to climb to the top of the island, which commanded a great extent of ocean, and there to look out for the two ships which had parted from the admiral during his voyage. Descending from the summit the sailors killed on the island of Alto Velo eight sea wolves, which were sleeping on the sands, knocked down many pigeons and other birds with sticks, and took others with their hands; for in this unfrequented island the animals seemed to have none of the wildness and timidity which is produced by the hostility of man. (Irving's Columbus, vol. 3, page 434.) Columbus remained at this anchorage of Alto Velo six days, (Churchill's Voyages, vol. 2, page 539; Herrera, Decad 1, liber 2, chap. 15;) and having then been joined by the two missing caravels, he coasted along the southeastern part of the island, passing the country watered by a branch of the Neyva. This country was a fertile plain, filled with hamlets and detached houses so close together that for the space of a league it was a continuous village. (Hist. San Domingo, by San Antonio del Monte y Tejada, 1853, page 336.)

Columbus began his third voyage on the 30th of May, 1498. After having made large discoveries on terra firma, or the mainland, of South America, he returned to the island of Hayti for repose and health. On the 20th of August he arrived at his former anchorage under the little island of Beata, and from that place he communicated with his brother, who was then exercising, by deputation, the authority of viceroy over the island of Hayti. Certainly Columbus could not have entertained a doubt of the title of Spain to any of the islands which he discovered.

In his last will and testament he wrote as follows:

"In the name of the most Holy Trinity, who inspired me with the idea, and afterwards made it perfectly clear to me that I could navigate and go to the Indies from Spain by traversing the ocean westwardly, which I communicated to the King, Don Ferdinand, and to the Queen, Donna Isabella, our sovereigns; and they were pleased to furnish me the necessary equipment of men and ships, and to make me their admiral over the said ocean in all parts lying to the west of an imaginary line drawn from pole to pole, a hundred leagues west of the Cape de Verd and Azore islands; also appointing me their viceroy and governor over all continents and islands that I might discover beyond the said line westwardly, with the right of being succeeded in the said offices by my eldest son and his heirs forever, and a grant of the tenth part of all things found in the said jurisdiction, and of all rents and revenues arising from it, and the eighth of all the

lands and everything else, together with the salary corresponding to my rank of admiral, viceroy, governor, and all other emoluments accruing thereto, as is more fully expressed in the title and agreement sanctioned by their highnesses.

"And it pleased the Lord Almighty that in the year one thousand four hundred and ninety-two I should discover the continent of the Indies and many islands, among them Hispaniola, which the Indians call Ayte, and the Monicongos, Cipango. I then returned to Castile to their highnesses, who approved of my undertaking a second enterprise for further discoveries and settlements; and the Lord gave me victory over the island of Hispaniola, which extends six hundred leagues, and I conquered it and made it tributary; and I discovered many islands inhabited by cannibals, and seven hundred to the west of Hispaniola, among which is Jamaica, which we call Santiago; and three hundred and thirty-three leagues of continent from south to west, besides a hundred and seven to the north which I discovered in my first voyage, together with many islands, as may more clearly be seen by my letters, memorials, and maritime charts. And as we hope in God that before long a good and great revenue will be derived from the above islands and continent, of which, for the reasons aforesaid, belongs to me the tenth and the eighth, with the salaries and emoluments specified above, and considering that we are mortal, and that it is proper for every one to settle his affairs and to leave declared to his heirs and successors the property he possesses or may have a right to, wherefore I have concluded to create an entailed estate (mayorazgo) out of the said eighth of the lands, places, and revenues in the manner which I now proceed to state." (Irving's Columbus, vol. 5, p. 444.)

The Historia de Santo Domingo, by Don Antonio del Monte y Tejado, published in Havana in the year 1853, contains Columbus's original account of his discoveries in that island, and is illustrated by a chart which seems to have been copied from the original charts of Columbus himself. On this chart appears the island of Alto Velo, undistinguishable (probably by reason of the smallness of the scale) from the main land. (See Plate No. II.)

In Churchill's Voyages and Travels, published in London, 1744, the author gives this account of the discovery of Alto Velo:

"On Saturday, the 23d, a catique came to the ships crying *almirante, almirante;* that is, admiral, admiral; whence he inferred that must be the point of Hispaniola, for till then he knew it not. At the end of August he anchored at a small island, which looked like a sail, because it is high, and called it Alto Velo, being twelve leagues from La Beata. The other two ships being out of sight, he caused some men to go up to the top of the island to discover them, and the seamen killed five seals that lay asleep on the sands, knocked down many birds with staves, and took some with their hands, for that part not being inhabited, they fled not from them. After six days the other ships came up; they proceeded to the island La Beata, which is small, and thence coasted along Hispaniola to a river, on which lies a curious plain very populous, now called De Catalina; that is, Catharine's, from a lady it belonged to." The same account of the discovery of Alto Velo and Beata is given by Churchill in the chapter entitled "The Discovery of the West Indies by Christopher Columbus, together with his life and actions."

In a map which accompanies M. L. E. Moreau de Saint Méry's Description Topographical, Natural, Civil, Political, and Historical, of the French part of the Island of St. Domingo, published in Philadelphia 1797, there are laid down, on the southern coast of Hayti, Cape La Beata, the island La Beata, the island Alto Velo, and two islands called Los Frailes; and the boundary between the French part and the Spanish part of St. Domingo is distinctly traced from the mouth of the river Pedernales, on the south, to the bay of Mancenilla, on the north, as it has been heretofore recited. (See Plate No. III.)

On a French war map of St. Domingo, made during the revolution for independence in Hayti, the demarcation line as fixed "between the French and

Spaniards in 1776," is indicated, and Cape Beata, Beata island, and Alto Velo are delineated as falling within the Spanish part, and as included in the province of Azua. Beata island is separated from Cape Beata by a strait five miles wide. This strait is marked as having a depth varying from 24 to 30 feet. Alto Velo is separated from Beata island by a strait a little less than six miles wide, and is fourteen miles distant from Cape Beata. "Good anchorage" is marked off Beata island, only five miles distant from Alto Velo. (See plate No. XVI.)

In Hakluyt's Voyage, vol. 4, page 103, first published in the year 1599, directions are given to the mariner for his voyage from St. Domingo to Nueva Espannas, in these words:

"If you will sayle from St. Domingo, in Hispaniola, to Nueva Espanna, stirre away south-southwest until you come up as farre as the point of Niçao; and from thence stirre away west-southwest, and so you shall finde the Isle of Beata. And if you saile from this point of Niçao for Ocoa you must passe along the coast west and by north untill you come to Puerto Hermoso. or the beautifull haven, which is 18 leagues distant from St Domingo; and if you proceede from Puerto Hermoso for Nueva Espanna you must stirre away south-southwest untill you looke out for Beata and Alto velo."

He continues to give "markes of the Isle of Beata:"

"Beata is a small island, and not very high; you may passe along the outside thereof, and there is no danger but that you may see; and by and by you shall raise Alto velo; and from thence you must stirre away west and by south to give a birth from the islands called Los Frailes or the Friers. And when you are as farre ahead as the Frailes, then you must stirre away west and by north, and so you shall goe right with Bacoa, and before you come to it you shall see high craggie cliffes, and at the descending of them white paths like great sheetes; these high craggie mountaines are called Las Sierras de Donna Maria. And before you come to the sayde point of Bacoa you shall discover a little lowe island, even with the sea, and full of trees, which is called Isla Baque.'

At page 113 of the same book, under what is called "The 2d ruttier for the West Indies," are given "the latitudes of the headlandes, capes, and islands, as well of Madera, the Canaries, and the West Indies, and of the Azores, and the Isles of Cabo Verde." In giving the latitudes of the capes of Hispaniola the author puts "the point of the isle of Saona in 17½; the cape called Punta de Niçao, neere S. Domingo, in Hispaniola, in 17½; the isle Beata, on the south side of Hispaniola, in 17; the point of Bacao, on the south side of Hispaniola, in 17½; Cape Tiburon, upon the west part of Hispaniola, and the isle of Nauaza, in 18⅓."

There is found in the library of the Department of State a copy of an original chart subscribed as follows: "Thomas Hood maide this platte, 1592." Upon this chart the world-dividing line between Spain and Portugal is accurately indicated. Besides most of the other West India islands, the island of Hispaniola is laid down, and its entire coast carefully delineated with bays, headlands, and the point of Beata exhibited, together with the islands of Beata, "Altovelo," and Frailes, as described in the journal of his discoveries by Columbus. (See Plate No. IV.)

An ancient chart by "Visconte de Majolo, of the Antilles and the mainland of Honduras to the Cape of Santa Maria, in Uruguay," gives the dividing line between Spain and Portugal, and flags bearing respectively the arms of those countries. Most of the West India islands are delineated, among them "Spagnola Isabella." The coast of Hayti is given, with two islands corresponding to the islands of Beata and Alto Velo, but without names. Across the lower part are written the words, "Tota terra inuenta p. Cristofa Colonbo Januensis de Re de Spania." (See Plate No. V.)

On another chart, without date, of the same collection, of particular parts of America, the West India Islands are given without names, except Cuba and

Bahama and "Spagnola," while Yucatan is marked as an island. Two small islands are found adjacent to "Spagnola," corresponding to Beata and Alto Velo, but are without names. (See Plate No. VI.)

A very ancient chart of the east coast of America, from Hudson's bay to the Straits of Magellan, presents the island of Hayti with adjacent islands in the same way. A portion of the chart is given on the accompanying Plate No. VII.

On another ancient chart of the east coast of America, from New Brunswick to the Amazon river, the West India islands are laid down with a fair delineation of the coast of Hayti, under the name of Hespanhol, with an island marked Beata, a second marked Frailes, and an adjacent one, without name, corresponding to Alto Velo. A portion of this chart is shown on Plate No. VIII.

We find also in the Department a copy of Juan de Cosa's map of the world, made in A. D., 1500, which represents the Antillian islands and their vicinity. It was taken from the *fac simile* draught which was made for the Physical, Political, and Natural History of the Island of Cuba, by Don Ramon de la Sagra; Paris, 1837. On this map the island of Hayti appears under the name of La Espanola, with its coasts. On its southern coast is marked C. de Lobo, and adjacent are the names "Beata" and "Altobelo;" but the islands are not marked. (See Plate No. IX.)

On a copy of charts of the important Antilles, as depicted separately by B. Bordone, in different parts of his well-known work called Isolario, (a description of all the islands of the world,) which was famous at its time—first edited 1528, then in 1534, and again in 1548—appear the islands of Jamaica, Cuba, Spagnola, Guadalupe, Dominica, Matinna, (probably Martinique) The city of Isabella, long since extinguished, is presented on the map of Spagnola, and on the southern coast are shown four islands corresponding in location to Beata, Alto Velo, and Los Frailes. All the islands are represented as uncultivated, wild, and full of hills and forests, with the only exception of Hispaniola, which shows many Spanish buildings. (See Plate No. X.)

A copy of a map of Hayti, or Hispaniola, is found in the same collection of the Department, which is contained in the following work: "Libro Primo della Historia, delle Indie occidentale cavate da libri scritti del P. Marted Oviedo: Venezia, 1534." It is the oldest engraved special map of Hispaniola which is known. On this map the coast is delineated; the cities of Indian tribes and Spanish settlements and forts are given; the cities of Isabella and St. Domingo are marked, and on the southern coast is marked C. De Lobos, with four islands corresponding to Beata, Alto Velo, and Los Frailes; but only the name of Beata is given. (See Plate No. XI.)

In the same collection is found a copy of an original map of the island of Hayti, which is contained in the third volume of the celebrated work of Ramusio, "Delle navigationi et viaggi: Venize, 1556." The cities of Isabella, Nativita, St. Dominico, and the province of Azova (Azua) are named. An island is given, marked De Lobos, which is near the main land, now known as Cape Beata, and the adjacent island is marked and named Beata, and two smaller islands, corresponding to Alto Velo and Los Frailes, are indicated. (See Plate No. XII.)

Still another map is found, which is a copy of the original which was made and engraved in the year 1564, by the well-known Italian chartographer, Paulo Forlano. The original bears the inscription: "The island of Spagnola, now called the island of St. Domingo, which is most fertile in many things: for instance, in cotton, gum, aloes, cinnamon, ginger, and other spices." Off the southern coast is marked Cape de los Bos and eight islands, two of which are named "Beata" and "Alto Velo," and all of them are colored as belonging to Espaniola. (See Plate No. XIII.)

In a map of the Antillian islands, drawn by Martines in 1578, the island of Hayti is found under the name of Spagnola, with two islands very close to the shore, one of which is named "Biata," and the other Frailes. Alto Velo does not appear. (See Plate No. XIV.)

A further map appears which was copied from a work entitled "Descripcion de las Indias ocidentales de Antonia de Herrera, 1601." The map has the title "Descripcion del distuco del Audiencia de la Española." The geographer who made this copy remarks in regard to this map as follows: "Though there have been made already before this time (1601) better and more complete maps of the principal West India islands, of Cuba, of Hayti, &c., still this map is remarkable as a general one of all those regions, giving in a pretty full and complete manner all the names of the islands, and of the principal settlements, capes, &c., and showing the positions and relations of all those islands in a very true and correct manner. In the original the name of the Antilles is not to be found on the map. They are called 'Ysias de la mar del Norte,' (the islands of the North Sea) Many of the names appear probably for the first time on an engraved and printed map." The towns of St. Domingo and Azua are given, and the peninsula of Beata is called La Calogia, separated from which appear the islands "Sabeata" and "Altobelo," with other islands corresponding to Los Frailes. (See Plate No. XV.)

We have no evidence that any part of the original Spanish province of St. Domingo was ever alienated by Spain before the Dominican revolution. By that revolution the whole of that dominion inured to St. Domingo. We have seen that the Republic of St. Domingo has ever since claimed the whole of it, including the isle of Alto Velo.

Legislators can seldom expect to foresee all the cases andconditions to which their laws may ultimately be supposed to apply. It can hardly be believed that in passing the guano law of 1856, Congress would have thought it necessary to insert a caution that the discoverers should assign the exact latitude and longitude of guano islands, if they had supposed their law would have been extended over islands that are known as landmarks to every seafaring man, and whose latitude and longitude were accurately set down in geographical maps and mariners' charts a hundred years before civilization commenced in the region now occupied by the United States. As little could Congress have expected that, in determining the national right to occupy such islands, they would come into conflict with a title directly derived from the original discovery and occupation of the West Indies by Columbus.

In the case of the claim of Cayo Verde, the Attorney General of the United States explained the guano act as follows:

"ATTORNEY GENERAL'S OFFICE,
"*December* 14, 1859.

"SIR: The papers sent me by you show that W. J. Kendall, of Baltimore, has petitioned to be protected in the possession of a guano island in the Caribbean sea, called Cayo Verde. It also appears that Cayo Verde is regarded by the British government as under the dominion of that power, and belonging to the Bahamas; Lord Lyons having given notice that the removal of guano therefrom, by an American, would be considered not only a trespass, but a hostile aggression.

"Before a citizen of the United States can be entitled to the benefit of the act of 1858, it must appear that the island, rock, or key, upon which he has discovered guano, was not, at the time of its discovery, within the lawful jurisdiction of any other government. In the present case, Cayo Verde is distinctly asserted by the British government to be within its jurisdiction. The President

has no right, under the law, to annex the island to the United States, or to put any American citizen in possession of it, until the diplomatic question raised by the British minister shall be finally settled, and not then unless it be settled in our favor.

"I am, very respectfully, yours, &c.,

"J. S. BLACK.

"Hon. LEWIS CASS,
"*Secretary of State.*"

Upon this review of the facts specially submitted to the Secretary by the claimants, as well as of other geographical, historical, and political facts which bear upon the subject, the Secretary of State finds himself unable to recommend the employment of the land and naval forces of the United States for the seizure of the island of Alto Velo.

WILLIAM H. SEWARD.

SUPPLEMENT.

JANUARY 22, 1868.

A new and distinct claim by the Alta Vela Guano Company was presented to the Secretary of State subsequently to the preparation of the foregoing report. (See Appendix 50 and 51.)

APPENDIX No. 1.

AN ACT to authorize protection to be given to citizens of the United States who may discover deposits of guano.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when any citizen or citizens of the United States may have discovered, or shall hereafter discover, a deposit of guano on any island, rock, or key not within the lawful jurisdiction of any other government, and not occupied by the citizens of any other government, and shall take peaceable possession thereof, and occupy the same, said island, rock, or key may, at the discretion of the President of the United States, be considered as appertaining to the United States: *Provided, however*, That notice be given by such discoverer or discoverers, as soon as practicable, to the State Department of the United States, of such discovery, occupation, and possession, verified by affidavit, describing said island, rock, or key, and the latitude and longitude thereof, as near as may be, and showing that such possession was taken in the name of the United States, and that satisfactory evidence be furnished to the State Department that such island, rock, or key was not, at the time of discovery thereof, or the taking possession and occupation thereof by the claimants, in the possession or occupation of any other government or the citizens of any other government.

SEC. 2. *And be it further enacted*, That the said discoverer or discoverers, or his or their assigns, being citizens of the United States, may be allowed, at the pleasure of Congress, the exclusive right of occupying said islands, rocks, or keys for the purpose of obtaining said guano and of selling and delivering the same to citizens of the United States, for the purpose of being used therein, and may be

allowed to charge and receive for every ton thereof delivered alongside a vessel in proper tubs, within reach of ship's tackle, a sum not exceeding eight dollars per ton for the best quality, or four dollars a ton in its native place of deposit: *Provided, however*, That no guano shall be taken from said island, rock, or key, except for the use of the citizens of the United States, or of persons resident therein, as aforesaid: *And provided also*, That said discoverer or discoverers, or his or their assigns, shall first enter into bonds, with such penalties or securities as may be required by the President, to deliver the said guano to citizens of the United States, for the purpose of being used therein, and to none others, and at the price aforesaid, and to provide all necessary facilities for that purpose within a time to be fixed in said bond, and any breach of the provisions thereof shall be taken and deemed a forfeiture of all rights accruing under and by virtue of this act.

SEC. 3. *And be it further enacted*, That the introduction of guano from such islands, rocks, or keys shall be regulated as in the coasting trade between different parts of the United States, and the same laws shall govern the vessels concerned therein.

SEC. 4. *And be it further enacted*, That nothing in this act contained shall be construed obligatory on the United States to retain possession of the islands, rocks, or keys, as aforesaid, after the guano shall have been removed from the same.

SEC. 5. *And be it further enacted*, That the President of the United States is hereby authorized, at his discretion, to employ the land and naval forces of the United States to protect the rights of the said discoverer or discoverers, or their assigns, as aforesaid.

SEC. 6. *And be it further enacted*, That, until otherwise provided by law, all acts done and offences or crimes committed on every such island, rocks, or keys, by persons who may land thereon, or in the waters adjacent thereto, shall be held and deemed to have been done or committed on the high seas, on board a merchant ship or vessel belonging to the United States, and be punished according to the laws of the United States relating to such ships or vessels and offences on the high seas, which laws, for the purposes aforesaid, are hereby extended to and over such islands, rocks, or keys.

Approved August 18, 1856.

APPENDIX No. 2.

BALTIMORE, *May* 14, 1860.

SIR: I beg leave to say to you that in January last I sent the brig Delta, Captain R. Daulby, from this port in search of guano islands, and on the nineteenth of March last anchored at Alta Vela island, in the Caribbean sea, and discovered upon said island a deposit of guano, and, in the name of the United States, took possession of it, and loaded his vessel, the said brig Delta, and sent her home, Captain Daulby remaining upon the island with two men to work and hold possession of the same. Said island lies out of the jurisdiction of any other government, and uninhabited at the time of discovery.

I have to ask that you will cause the proper entry to be made in my name as the owner and discoverer of said guano deposit.

Respectfully, your obedient servant,

W. T. KENDALL.

Hon. LEWIS CASS,
Secretary of State.

APPENDIX No. 3.

BALTIMORE, *May* 14, 1860.

SIR: We respectfully beg leave to give notice hereby that, in conformity with this act, we have taken possession of the island of Alto Velo, in the Caribbean sea—latitude 17° 28′ 11″, longitude 71° 40′ 30″—and that the same is now in our possession, and occupied by Captain S. R. Kimball and crew of the schooner Boston, and when we get our duplicate letters, the originals of which were sent us through Captain Daulby, of the brig Delta, which, by some unaccountable and unexplained reason, have not as yet come to hand, we will furnish the Department with full particulars and the necessary proofs called for by this act.

Very respectfully,

PATTERSON & MURGUIENDO.

Hon. LEWIS CASS,
Secretary of State, Washington, D. C.

N. B.—We would have given this notice to the Department on the 29th of April, 1860, on receipt of our second letter on that day, but waited for the original letters, which contained full particulars.

P. & M.

APPENDIX No. 4.

BALTIMORE, *June 5*, 1860.

SIR: Enclosed please find a document containing proof of my having discovered a deposit of guano on the Alta Vela, the taking possession of and the location of said island coming, I believe, within the guano act of 1856, August 18.

I ask if you will prescribe the bond for me to sign, as I have a vessel ready to sail for said island, and wish to go properly authorized.

Respectfully, your obedient servant,

W. T. KENDALL.

Hon. LEWIS CASS.

APPENDIX No. 5.

UNITED STATES OF AMERICA, *State of Maryland, &c.*

I, William Gilmore, notary public, by letters patent under the great seal of the State of Maryland, commissioned and duly qualified, residing in the city of Baltimore, in the State aforesaid, do hereby certify, attest, and make known, that on the day of the date hereto before me personally appeared G. W. Goslin, present master of the brig Delta, of Baltimore, and James Gordon and John Pugh, of and belonging to the said brig, who, being by me duly, solemnly, and severally sworn on the Holy Evangelists of Almighty God, did severally depose and say, that on the 28th day of January, 1860, W. T. Kendall fitted out the said brig Delta, and despatched her for the Caribbean sea, in search of deposits of guano undiscovered, and that when sailing from Baltimore Captain Richard Daulby was master and agent for W. T. Kendall; futhermore that on the 19th day of April, 1860, the appearers arrived in said brig Delta at an island called Alta Vela, lying in latitude 17° 30′, and longitude 72° 40′, about forty miles from the island of St. Domingo, anchored said brig and went on

shore with Captain Richard Daulby, and found a large deposit of guano, at least 15,000 tons. The said island was uninhabited, and bore no traces of having been formerly inhabited, being unclaimed and not occupied. The said Captain Richard Daulby took possession of the island, in company with the appearers, in the name of the United States and for the benefit of W. T. Kendall. Having raised a flag upon it and built a house, they, these appearers, then loaded the said brig and sent her to Baltimore to W. T. Kendall, in command of G. W. Goslin, one of these appearers, the said Captain Richard Daulby staying on the island, in possession, where he now remains.

The guano has been analyzed and found to contain sixty-six per cent. of bone phosphate of lime, being a merchantable article, and worth in this market fifteen (15) dollars a ton.

GEORGE W GOSLIN,
his
JAMES + GARDNOR.
mark.
his
JOHN + PUGH.
mark.

In testimony whereof, the said deponents have hereunto subscribed their names, and I, notary, have hereunto set my hand and affixed my seal notarial, this sixth day of June, in the year of our Lord one thousand eight hundred and sixty.

WILLIAM GILMORE, *Notary Public.*

APPENDIX No. 6.

DEPARTMENT OF STATE,
Washington, June 7, 1860.

SIR: I have to acknowledge the receipt of your communication of the 5th instant, and the depositions which accompanied it, relative to the discovery and occupation of Alta Vela island, under the act of Congress of August 18, 1856.

It is proper to inform you that a letter was addressed to this Department on the 14th ultimo, by Patterson & Murguiendo, claiming to have taken possession under that act of Alta Vela island, in latitude 17° 28′ 11″, longitude 71° 40′ 30″, and that at the date of their letter it was still in their possession, and occupied under their authority by S. R. Kimball and crew, of the schooner Boston.

Under these circumstances, and also since no evidence is furnished by you of the quantity of guano upon that island, no certificate of any respectable chemist as to its quality; and further, as from the name of the island it must have been discovered by Spaniards, and from its position may be claimed as within the jurisdiction of the Dominican Republic, a compliance with your request to prescribe at this time the penalty of the bond is not deemed advisable.

I am, sir, respectfully, your obedient servant,

JOHN APPLETON,
Assistant Secretary.

W. T. KENDALL, ESQ., *Baltimore, Maryland.*

APPENDIX No. 7.

BALTIMORE, *June* 19, 1860.

SIR: Enclosed please find a copy of analysis of guano made by our State chemist, which you will perceive contains $63\frac{18}{100}$ per cent., whereas a standard

article contains 55 per cent. I have also shown there is a very large quantity in the island, which lies entirely out of the jurisdiction of Hayti. Again: officers from the island of Hayti came upon the island while in charge of my men, and did not molest them, nor forbid them from taking away the guano, but left them in peaceable possession thereof. You say in your last letter that Patterson and Murguiendo had also laid claim to the discovery. This I am prepared to prove is not the case. One Captain Kimball, sailing for these parties, landed upon the island some ten (10) days after I had raised the American flag and had dug enough to load my vessel.

I must again ask that you will prescribe the proper bonds for me, and allow me to go and take away the guano by proper authority; every evidence that you need I can promptly furnish you of my right.

I remain your obedient servant,

W. T. KENDALL.

Hon. LEWIS CASS.

APPENDIX No. 8.

BALTIMORE, *June* 18, 1860.

Analysis of an average sample of guano left by William T. Kendall, esq., represented to be from Alta Vela, per brig Delta, May 20, 1860. Said sample contains:

Phosphoric acid	29.16
Lime, &c.	70.84
	100.00

29.16 per cent. of phosphoric acid is equal to 63.18 per cent. of bone phos. of lime.

THOMAS I. PITT.

APPENDIX No. 9.

DEPARTMENT OF STATE,
Washington, D. C., June 21, 1860.

SIR: In the absence of any further proofs, I can only refer you to the letter from this Department of June 7, and say that any information which you may choose to file in this Department will receive immediate attention.

I am, &c.,

WILLIAM H. TRESCOTT.

W. T. KENDALL, Esq.

APPENDIX No. 10.

BALTIMORE, *June* 22, 1860.

SIR: Yours of the 21st is at hand, and in reply have to say: I have clearly proved that my agent, Captain Richard Daulby, did, on the 19th of April, 1860, take peaceable possession of the island called Altivela, an uninhabited, desolate place, without the most remote sign of ever having been inhabited; also, upon this island he (Daulby) discovered a large and rich deposit of guano; also, that it lies entirely out of the jurisdiction of Hayti; all of which I have clearly proved to the satisfaction of the Department, which is all that is required under the

guano act of 18th August, 1856. I now have to ask the bonds to be prescribed, that I may act authoritatively, and bring said guano to market. Hoping that you will render me what official protection you can in protecting my interest,

I remain your obedient servant,

W. T. KENDALL.

Hon. LEWIS CASS.

APPENDIX No. 11.

WASHINGTON, D. C., *July* 16, 1860.

SIR: I have the honor to transmit herewith an affidavit of S. R. Kimball, accompanied by a letter from Messrs. Patterson & Murguiendo, of Baltimore, explaining certain facts in connection therewith, and requesting me to cause it to be filed in the State Department. Begging that you will fulfil the object of the communication of Messrs. Patterson & Murguiendo,

I am yours, respectfully,

GEORGE W. BARRY.

Hon. WILLIAM H. TRESCOTT,
Acting Secretary of State.

APPENDIX No. 12.

UNITED STATES OF AMERICA, *State of Maryland, sc:*

I, William Gilmor, notary public, by letters patent under the great seal of the State of Maryland, commissioned and duly qualified, residing in the city of Baltimore, in the State aforesaid, do hereby certify, attest, and make known that, on the date of the day hereof, before me personally appeared Samuel R. Kimball, master mariner, who being by me duly and solemnly sworn on the Holy Evangelists of Almighty God, did depose and say that, on the twenty-third day of February, eighteen hundred and sixty, he then in command of the schooner Boston, of Baltimore, owned by Messrs. Patterson & Murguiendo, of said place, and for whom he was acting as agent, he took possession of the island of Alta Vela in the name of the United States, in the presence of —— Miller, first mate, and Mathias Fuchs, steward of said schooner, said island being situated in the Caribbean sea, and lying in latitude 17° 28′ 11″ north, and longitude 71° 40′ 30″ west; that at the time of his taking possession of said island, there were no inhabitants or habitations whatever thereon, or traces of any kind of there ever having been either on the island; that he left on said island a written notice, in conformity to the American guano act, in the following words, as near as he can recollect: "This is to certify that I, Samuel R. Kimball, of the schooner Boston, owned by Messrs. Patterson and Murguiendo, of Baltimore, visited, surveyed, and took possession of this island under the act of Congress provided for such purposes, approved 18th August, 1856, for the purpose of exporting guano to the United States;" that on the 23d of March following he returned again to said island, (having left it for the purpose of chartering vessels to export the said guano to the United States, in conformity to said act of Congress,) and this deponent further stated, that he is now in peaceable possession of said island, shipping guano from and working thereon.

S. R. KIMBALL.

In testimony whereof the said deponent hath hereunto subscribed his name, and I, notary, have hereunto set my hand and affixed my seal notarial this thirteenth day of July, in the year of our Lord one thousand eight hundred and sixty.

[SEAL.] WILLIAM GILMOR, *Notary Public.*

APPENDIX No. 14.

We take the liberty of enclosing herewith this paper, which has been misplaced. It speaks for itself, and is the strongest evidence that the St. Domingo government were afraid to carry out their designs, after Mr. Miller noted his protest.

Very respectfully, your obedient servants,

PATTERSON & MURGUIENDO.

APPENDIX No. 14.

BALTIMORE, *January* 1, 1861.

DEAR SIR: About the 4th of December, 1860, we obtained from the State Department a certificate acknowledging us as discoverers of the guano deposits on Alta Vela, under the guano act of 1856. This paper we sent to the island. We would now like to have a duplicate to annex to the statement we are preparing to be laid before the State Department, in view of our expulsion from the island. If we wait until the paper can be obtained from the West Indies it will delay our statement. Feeling satisfied that you will aid us in the matter, we beg to have a copy sent us by return mail.

We have the honor to be your obedient servants,

PATTERSON & MURGUIENDO.

Hon. W. HUNTER,
Assistant Secretary of State, Washington, D. C.

APPENDIX No. 15.

DEPARTMENT OF STATE,
January 2, 1861.

GENTLEMEN: Your letter of the 1st instant, stating that you obtained from the State Department on the 4th of December last a certificate acknowledging you as discoverers of the guano deposits on Alta Vela, and requesting a duplicate of the same, has been received. In reply I have to inform you that as that certificate merely attested the correctness of copies of original papers filed by you, and that none of a prior date relating to Alta Vela had been received by the Department, it is not deemed necessary for the purpose which you mention to issue a duplicate certificate. A reference by you to the original will be sufficient.

I am, gentlemen, your obedient servant,

JEREMIAH S. BLACK.

Messrs. PATTERSON & MURGUIENDO,
Baltimore, Maryland.

APPENDIX No 16.

UNITED STATES OF AMERICA,
State of Maryland, City of Baltimore, sc:

On this seventh day of January, A. D. 1861, before the subscriber, a notary public of the State of Maryland, duly appointed and qualified under the laws thereof, personally appears John A. Miller, who being, at the request of Messrs. Patterson & Murguiendo, merchants of Baltimore, by me sworn on the Holy

Evangelists of Almighty God to tell the truth, the whole truth, and nothing but the truth, deposes and says as follows:

I, John A. Miller, am aged 34 years. I was born 24th of December, 1826, at Gouen, Holland. I was naturalized in 1851 at Baltimore in one of the State courts, viz, the criminal court of Baltimore, and have ever since been a citizen of the United States. I am a mariner. On the 19th of January, 1860, I entered the employ of Messrs. Patterson & Murguiendo, merchants of Baltimore, as mate of the schooner Boston, of Baltimore. In said vessel I sailed from Baltimore on the 21st of January, 1860, for Alta Vela, under Captain S. R. Kimball, and arrived there on the 23d of February, 1860. Remained there for 24 hours. We found a deposit of guano, but no inhabitants; no water, it being a desolate islet. I again visited Alto Velo on the 24th of March, 1860, in the schooner Boston, Captain Kimball. I went ashore with two men and remained there until the 24th of October, 1860. My object in going to Alta Vela was to superintend the men there sent by Messrs. Patterson & Murguiendo, of Baltimore, in loading vessels with guano. Several vessels were loaded with guano for the United States on their account. While I was on the islet of Alta Vela the only persons who visited it, except the American vessels and the men-of-war hereafter spoken of, were certain fishermen in fishing boats from Jacmel, Hayti. These fishermen obtained turtle and other fish with my permission, which they carried to Jacmel, Hayti. While Captain Kimball was at Alta Vela he employed some of these fishermen with their fishing boats to go to the island of Beata, Hayti, to obtain water. I, on one occasion, went with them. This island of Beata is about ten miles from Alta Vela, and is the nearest land to it. Beata is inhabited by the Haytiens, and was so occupied while we were at Alta Vela. On the 8th of April, 1860, a Spanish man-of-war arrived at Alta Vela. A boat was manned; the officer and men landed and inquired what was doing on the island. I answered we were Americans and working guano. The stars and stripes were floating at the time on our flagstaff. The officer seemed satisfied and returned to the man-of-war. On the next day an armed open boat from Jacmel, Hayti, visited the islet and made similar inquiries, and left without molesting us. Whenever a vessel or boat would come in sight of the islet, I hoisted the United States flag, (the stars and stripes.) On the 4th of September, 1860, on Thursday, while the American flag was flying on the flagstaff at Alta Vela, the St. Domingo man-of-war, the schooner Merced, arrived; an officer landed and inquired what we were doing on the island, and of what nation we were. We told him he could see we were loading the brig Mary Morton with guano; we were Americans. I gave the officer the business card of Messrs. Patterson & Murguiendo. I showed him the guano act, and told the officer we had taken possession and were working under that act. The officer asked if we would let him take some of the guano, and being answered "Yes," sent to his vessel for two buckets and filled them and took them away. Nothing further was said.

On the 23d of October, 1860, the same vessel of war, the Merced, returned to Alta Vela. As soon as the Merced hove in sight I hoisted the American flag, the stars and stripes, on the flagstaff. This standard was visible to the Merced. An officer came ashore from this vessel and asked me why I had hoisted the American flag. I answered him that I had taken possession, under the guano act of Congress, for the United States. I showed him the act of Congress. He asked how long I had been on the island, and I told him, "seven months." This officer said to me, "would I be kind enough to go on board the Merced." I did go. I there saw General Evartz, "the general-in-chief of the flotilla de la Merced." This gentleman inquired of me what nation we were on the island, and what we were doing. I made answer we were Americans, and engaged in shipping guano to the States. I produced and showed to him a copy of the guano act; told him I had been there seven months and had taken possession in the name of the United States. I then left the vessel and went ashore. I

had been ashore about two hours when General Evartz wrote me a letter requiring me to leave the island with all my men and materials in twenty-four hours. This letter and others are annexed to the memorial of Messrs. Patterson & Murguiendo to the United States government praying redress. Myself and men were living in three tents on Alta Vela. Over the tents occupied by me floated the American flag. About fifty men and officers came ashore from the Merced; came to our tents, knocked them down, and knocked down our flagstaff, throwing it to the ground, and carried our materials and lumber aboard their vessel; some they burned; the two carts and mules they carried off, and myself and eleven men under me they made prisoners, and took us aboard their vessel and carried us to St. Domingo. When we got in port the officer told us we could go ashore. I was there thirty-three days before I could get away. I left for Baltimore in the schooner Alice Mowe, Captain Kimball, who had come to look after us. The men with me were taken charge of at St. Domingo by Captain Kimball after he arrived there. Some he sent off by vessels to the United States; the balance he brought home with me in the Alice Mowe, which arrived in Baltimore 3d of January, 1861.

JOHN A. MILLER.

STATE OF MARYLAND, *Baltimore City, to wit:*

Be it known on this seventh day of January, eighteen hundred and sixty, before me, Lewis Sutton, notary public, duly commissioned and qualified in and for the State and city aforesaid, residing in the city of Baltimore, came and personally appeared John A. Miller, formerly mate of the schooner Boston, of the port of Baltimore, and late superintendent of the island of Alta Vela in the Caribbean sea, and made oath on the Holy Evangely of Almighty God that the within statement of facts is true to the best of his knowledge and belief, and in my presence and before me signed his name and affixed his signature to the same.

In testimony whereof, I have hereunto set my hand and affixed my seal notarial on the day and year above written.

[SEAL.]

LEWIS SUTTON,
Notary Public.

APPENDIX No. 17.

ALLA VELA, *October* 24, 1860.

SIR: I kan inform yoe thad I was boardet by a St. Dominigian man-of-war withs orderd me to leef the island in 24 hours Notice; there was no resisting juest; there were 150 man on board the schoener then have taken ous all to St. Domingo. I hope yoe wil soon arrive; there was no tyme fore mie to take all the things, soo I hope yoe wil find them aal on the Island; wie leeft the island Wednesday; there was neuws in St. Domingo houw mugh Guano there was taking of, and I have toold them about 900 tons, moree or Les; and the Brig Mary Morton the Island or Friday with 300 tons of Guano; you wil find som of the Stores in the bhushes wehre the tents stood, and one barel Beef Near the landing, and one barel flour about 20 yard from the Bechae, and som of the stores near the pitt weahre the Guano was digd the Boots ar leeft on the Island, the rest was all taking by them and put on board the schoener. I give yoe the sama tyme coppy of a letter withs I wrote to the comander of the Schoener.

JOHN A. MILLER.

Captain KIMBALL.

APPENDIX No. 18.

UNITED STATES OF AMERICA,
State of Maryland, City of Baltimore, &c:

On the seventh day of January, A. D. 1861, before the subscriber, a notary public, duly appointed under the laws of Maryland and duly qualified, personally appears Samuel R. Kimball, born on the 23d January, 1819, in Gloucester county, Virginia, a citizen of the United States of America, and at the request of Messrs. Patterson and Murguiendo, merchants of Baltimore, is sworn by me, the said notary public, to tell the truth, the whole truth, and nothing but the truth; the said oath being administered on the Holy Evangely of Almighty God; and the said Samuel R. Kimball so being sworn proceeds to depose and say, as follows:

I, Samuel R. Kimball, am a citizen of the United States. I was born in Gloucester county, Virginia, on the 23d January, 1819. I am a master mariner. On the 10th November, 1860, being in command of the schooner Alice Mowe, of Baltimore, Maryland, I visited the islet, a key of Alta Vela, where I expected to find Captain John A. Miller and men under him in possession of said islet, working the deposit of guano thereon, with a view to its shipment to the United States. My schooner, the Alice Mowe, was in ballast, from Jamaica, I having come to Alta Vela at that time to load with guano for Baltimore, Maryland. I found the islet unoccupied. It bore the marks of desertion. There were visible wrecks of property, bearing marks of injury from fire. The explanation of its desertion I found in the annexed letters, which were deposited in bottles and placed on the islet where I found them. I had been to Alta Vela on the 14th day of October, 1860, on my way from Baltimore to Kingston, Jamaica, in the schooner Alice Mowe, and then had left men, materials, and provisions for Captain Miller; amongst other materials then left by me were two carts and two mules. Captain Miller had been placed on the key of Alta Vela by me on the 24th March, 1860, from the schooner Boston, of Baltimore, then under my command; I being in the employ of Messrs. Patterson and Murguiendo, merchants of Baltimore. At the same time two men were placed on the islet under Captain Miller. On the 23d February, 1860, I visited Alta Vela. I was at that time in command of the schooner Boston, of Baltimore; it having been fitted out by the said firm of Patterson and Murguiendo, of Baltimore, for the purpose of exploring the Caribbean sea for islets or keys containing deposits of guano. When I landed at Alta Vela, on the 23d February, 1860, I examined it and found a deposit of guano. On the 24th of March, 1860, I returned to Alta Vela. I landed Captain John A. Miller at that time from the schooner Boston, with two men and materials for working the deposits of guano and loading vessels. I left Alta Vela on the 31st March, 1860. I returned on the 15th April 1860, with four additional laborers and provisions. In April, 1860, at Kingston, Jamaica, I chartered the bark Ellen Morrison, of New York, to proceed to Alta Vela, there to load with guano for Baltimore. This bark arrived 18th April, 1860; was loaded with guano from Alta Vela, and sailed for Baltimore 11th May, 1860. This key or islet of Alta Vela was unoccupied and uninhabited by any one at the time I took possession of it in February, 1860, for Messrs. Patterson and Murguiendo, of Baltimore. It is destitute of water and desolate. Its description, latitude and longitude, and notice of its discovery as to guano deposits, have been communicated to the State Department by me heretofore, which discovery and information are on file in the State Department. When, on the 10th November, 1860, I discovered Alta Vela had been deprived of its occupants I left it, but before doing so I wrote a letter, which I deposited in a bottle and left on the islet, requesting any captain who might come there from Messrs. Patterson and Murguiendo to load with guano. I left the bottle containing such letter in such a position on the islet as any one visiting it might find it. On the 10th November, 1860,

when I left Alta Vela, I proceeded to the city of St. Domingo, for the purpose of ascertaining what disposition had been made of Captain Miller and his eleven men, and the property of Messrs. Patterson & Murguiendo, under his charge. What action and proceedings I then took are detailed in the protest made by me before Jonathan Elliott, Commercial Agent of the United States, and the file of letters certified to by him, which are appended to the petition of Messrs. Patterson & Murguiendo, praying redress from the government of the United States. I estimate the quantity of guano on Alto Velo at one hundred thousand tons. The islet is about two miles in extent. The highest point is about four hundred feet high. The whole or nearly the whole of the islet is covered with deposits of guano, and is of a good quality. The estimate I make is, of course, conjectural, but is put by me under rather than over the quantity.

S. R. KIMBALL.

STATE OF MARYLAND, *Baltimore City, to wit:*

Be it known on this seventh day of January, eighteen hundred and sixty, before me, Lewis Sutton, notary public, duly commissioned and qualified in and for the State and city aforesaid, residing in the city of Baltimore, came and personally appeared Samuel R. Kimball, formerly master of the schooner Boston, of the port of Baltimore, now master of the schooner Alice Mowe, of Baltimore, acting agent for Messrs. Patterson & Murguiendo, of Baltimore, for the island of Alta Vela, in the Caribbean sea, and made oath on the Holy Evangely of Almighty God that the within statements of facts are true to the best of his knowledge and belief, and in my presence, and before me, signed his name and affixed his signature to the same.

In testimony whereof I have hereunto set my hand and affixed my seal, notarially, on the day and year above written.

[SEAL.]

LEWIS SUTTON.

APPENDIX No. 19.

BALTIMORE, *January* 8, 1861.

SIR: Under the provisions of an act of Congress of the United States of America, approved August 18, 1856, entitled "An act to authorize protection to be given to the citizens of the United States who may discover deposits of guano," the undersigned citizens of the United States, viz., Abraham B. Patterson and Prudence de Murguiendo, merchants of Baltimore, in the State of Maryland, trading under the style and firm of Patterson & Murguiendo, having, in the month of February, 1860, discovered a deposit of guano on the islet of Alta Vela, the same not being within the lawful jurisdiction of any other government, and not occupied by the citizens of any other government, they, the said firm of Patterson & Murguiendo, took peaceable possession thereof and occupied the same, with the intention of removing from said islet or key the deposits of guano thereon contained, for the purpose of selling and delivering the same to citizens of the United States of America, for the purpose of being used therein; and the said firm respectfully represent to the Department of State of the United States of America, that on the part of said firm they complied with the provisions of the said act of Congress, hereinbefore referred to, and did give notice to the State Department of the United States of America of such discovery, occupation and possession, verified by affidavits describing said isle or key, and the latitude and longitude thereof, and showing that such possession was taken in the name of the United States; and the said firm furnished to the State Department satisfactory evidence that such islet or key, known as Alta Vela, was

not at the time of discovery thereof, and at the time of the taking possession and occupation thereof by the said firm, in the possession or occupation of any other government, or of the citizens of any other government, for the full particulars of which actings and doings by the said firm under said act of Congress the said firm beg leave most respectfully to refer to the said documents on file in the State Department. And the said firm further represent that they continued in the quiet and peaceable occupation of said islet, working and removing the deposits of guano thereon, from the time of actually taking possession, to wit, the 24th of March, 1860, until the 24th of October, 1860, when the possession held by the said firm was forcibly hindered and prevented by the interference of General Evertz, "the general-in-chief of the flotilla of the Merced," who appeared before the said islet of Alta Vela in the war schooner Merced, a vessel of war of the Dominican government, on the 23d of October, 1860, and from said islet of Alta Vela expelled the agents of this firm, to wit: John A. Miller and eleven laborers therefrom, who, together with their implements and materials for digging the deposits of guano and shipping the same, had been placed on said islet of Alta Vela by the said firm under the provisions of the guano act passed by Congress. And the said firm further represent that when the said war schooner Merced appeared before the islet of Alta Vela, with the purpose, as was subsequently developed, of expelling the parties in possession, they, the said parties, had hoisted the American flag, as well for their protection as evidence of their nationality and of the lawfulness of their pursuit; and on the arrival at said islet of an officer from the war schooner Merced, in response to inquiries put by such officer to Captain Miller, the officer was informed that the parties on the islet were Americans and engaged in shipping guano to the United States; that they had been in peaceable possession seven months, and had taken possession in the name of the United States. Captain Miller produced and showed to the officer interrogating him a printed copy of the act of Congress known as the "guano act." After making this statement to the officer, he invited Captain Miller on board the war schooner Merced to have an interview with General Evertz, its commander. Captain Miller went on board, and to General Evertz exhibited the guano act of Congress, and made the same statement as to the possession of the islet, the nationality of the men on the islet, and their object in keeping possession as first made to the officer, as hereinbefore detailed. Captain Miller left the war schooner Merced, went ashore, and had been there about two hours when the commander, General Evertz, sent a letter requiring Captain Miller and his men to vacate the islet. To this demand Captain Miller gave the only response in his power, that it was impossible for him to comply, as there was no vessel there in which they could leave.

And the said firm further represent that, on the next day, they were forcibly deprived of their possessions by the act of General Evertz, who, from his said vessel, the Merced, landed a large party, amounting, officers and men, to about fifty in number, who came on the islet, knocked down the flag-staff on which was flying the American flag, (the stars and stripes,) overthrew the tents in which Captain Miller and his eleven men lived, destroyed material used by Captain Miller on the islet, forced Captain Miller and his men on board the Merced, and carried them prisoners to the city of St. Domingo. And the said firm further represent that this proceeding on the part of the officers and men of the schooner of war Merced was, and is, wholly without lawful warrant or authority, and is such an act as compels the said firm to submit the case to their own government for redress of their wrongs.

And the said firm further represent that the files of the Department of State show that they, the said firm, were the first discoverers of the deposit of guano on the island of Alta Vela; that, acting under and by virtue of the authority of the act of Congress known as the "guano act," and in full reliance of the fostering care and protection of their government, the said firm took peaceable possession

of the islet of Alta Vela, barren and desert, with no other purpose or view than to remove therefrom the deposits of guano thereon for the use of citizens of the United States, and in so acting and doing, as by the said act of Congress the said islet of Alta Vela was considered as appertaining to the United States, the said firm believed all necessary protection would be afforded them, and hence, upon the approach of any vessel, whether of war or otherwise, their national flag was hoisted, that the nationality of the men engaged in and about the business of the said firm might be made manifest to the world.

And the said firm further represent that the damages and injuries sustained by them had been very great by the expulsion from said island of Alta Vela. The evidence submitted herewith shows the quantity of guano on said islet to be at least one hundred thousand tons, which, at the valuation placed by the second section of the guano act, viz., four dollars ($4) per ton in its native place of deposit, would make the deprivation of the firm's right to possession a loss to them of four hundred thouand dollars, ($400,000.) But the guano, to the said firm, after paying all working expenses, would yield a net profit of eight dollars and thirty-two cents ($8 32) per ton.

And the said firm further represent that, during the seven months they held possession, they had received from the islet of Alta Vela 1,074 $\frac{1020}{2240}$ tons of guano therefrom, which has been landed at the port of Baltimore, and brought there by their and other vessels, as will be seen by the custom-house certificate herewith appended. Upon such guano a profit had been realized by the firm of nine thousand three hundred and seventy-nine dollars and seventy-seven cents, ($9,379 77,) as will be seen by the statement annexed; and the said firm further represent that such profit so by them realized is scarcely a fair criterion of what they might have realized from the removal of the deposits of guano from the island of Alta Vela, because at the time they were driven therefrom they had increased their force of men and material, and had acquired experience in working and shipping the deposits, and thereby the citizens of the United States, and persons resident therein, would have been materially benefitted by its introduction.

The papers herewith submitted with this memorial show the actual injury sustained by the said firm, and for which the said firm humbly pray amends and compensation, as well also for the deprivation of the right to remove the deposits of guano, to which, it is respectfully submitted, they had acquired title.

And the said firm earnestly invite the attention of the Department of State to the fact disclosed in the deposition of Captain John A. Miller, that the steps taken for the dislodgement of their firm from the island of Alta Vela were not hasty, but were upon consultation of those in authority in the Dominican government, and after full notice by the firm, through their agents on the island. The deposition, herewith submitted, of Captain Miller, shows that the war schooner Merced visited the island of Alta Vela on the 4th of September, 1860; there saw the American flag displayed from the flagstaff. An officer landed from the Merced, and inquired into the occupancy of the islet. Not only was he told they were Americans, but he was shown a copy of the act of Congress under which the islet was occupied, and the business card of the firm was furnished him, which he took away, as also two buckets of the guano, and saw, loading there with the guano, the brig Mary Morton.

The State Department is doubtless apprised by letters from its special agent, William L. Cazneau, that the Dominican government proposed to dislodge this firm and its agents by force, and destroyed their property on Alta Vela; though, doubtless, had such information reached the Department in time to prevent it, this firm and its agents would have been protected in their occupancy.

The attention of the Department is requested as well to the despatches of Mr. Cazneau as to the letter, herewith appended, of C. De Ronceray, esq., United States consul at St. John's, Puerto Rico, showing that the islet of Alta Vela has never been claimed or occupied by Dominican citizens, or that government

had ever exercised the nominal care of this outlying sand-spit, until this firm had discovered and developed its guano resources.

Further: the attention of the department is invited to this deposition of Captain Miller, as showing that the only persons visiting the islet from the neighboring territory were the Haytiens from the island of Beata, ten miles or thereabouts distant from Alta Vela.

The firm of Patterson & Murguiendo do now submit this their statement, together with their proofs in support thereof, to the Department of State, and pray that such relief and redress as is in the power of the United States government may be afforded them.

We have the honor to subscribe ourselves, your obedient servants,

PATTERSON & MURGUIENDO.

Hon. J. S. BLACK,
Secretary of State, Washington, D. C.

UNITED STATES OF AMERICA,
State of Maryland, City of Baltimore, sc:

On this ninth day of January, 1861, before the undersigned, a notary public, duly commissioned and qualified under the laws of Maryland, personally appear Abraham B. Patterson and Prudence de Murguiendo, and made oath, in due form of law, that the matters and facts set forth in the aforegoing memorial and accompanying vouchers and proofs are, to the best of their knowledge and belief, true.

In testimony whereof, I have hereunto affixed my official seal as such notary public.

[SEAL.] WILLIAM GILMOR, *Notary Public.*

Statement of actual loss sustained by Patterson & Murguiendo by their expulsion by the Dominican government from the islet of Alta Vela on the 24th of October, 1860.

Expense of cost and discovery of islet	$4,000 00
Pay of men, support, cost of returning and maintenance for seven months	2,350 00
Cost of material and transportation of same to work guano deposits	3,540 00
Loss by freights and charter-parties of vessels returned in ballast	4,378 50
Loss of profit on guano, if received by these vessels, 973 tons, at $8 32, after deducting freights, &c	8,095 36
Total	22,363 86

This is to certify that the following is a true statement of the profits made on the cargoes of guano imported from the island of Alta Vela, in the Caribbean sea, during the seven months' occupation of said island:

Profit on $231\frac{1620}{2240}$ tons of guano, per bark Ellen Morrison	$2,768 42
Profit on $83\frac{373}{2240}$ tons of guano, per Tremont	728 18
Profit on $47\frac{30}{2240}$ tons of guano, per F. Howell	589 21
Profit on $324\frac{1964}{2240}$ tons of guano, per J. Morton	2,817 16
Profit on $133\frac{797}{2240}$ tons of guano, per Alice Mowe	589 77
Profit on $254\frac{786}{2240}$ tons of guano, per Mary Morton	1,887 03
Profit on $1,074\frac{1090}{2240}$ tons of guano	9,379 77

Since the taking forcible possession of the island of Alta Vela by the St. Domingo government, the brig Roseway Bell and Schooner Alice Mowe have arrived in ballast, which were chartered to go to said island to load with guano, together with the schooner Minerva and brig Mary Morton, both of which vessels will come upon us with claims for non-fulfilment of charter-parties; the first two belong to us, and their freight is estimated at the same price per ton as the last.

The profit on the four cargoes of guano, taken at the average price at which the six previous cargoes were sold, is $15 82 per ton, less $7 50 per ton, amount of charges covering freight, insurance, labor, inspection, &c.—leaving a net profit of $8 32 per ton on the cargoes that the following vessels would certainly have brought: On 230 tons, brig Roseway Belle; on 223 tons, schooner Alice Mowe; on 200 tons, schooner Minerva; on 320 tons, brig Mary Morton—973 tons of guano, at $8 32 net profit per ton, $8,095 36.

Appendix No. 20.

Commercial Agency of the United States of America.

By this public instrument of declaration and protest, be it known and made manifest unto all whom these presents shall come or may concern, that, on the 16th day of November, A. D. 1860, before me, Jonathan Elliott, Commercial Agent of the United States of America for the city of St. Domingo, Porto Plata, and the dependencies thereof, personally came and appeared S. R. Kimball, master of the vessel called the Alice Mowe, of Baltimore, now detained in this port of St. Domingo city, who duly noted and entered with me, the said Commercial Agent, his protest, for the uses and purposes hereinafter mentioned, and now, on this day, to wit, the day of the date hereof, before me, the said Commercial Agent, again comes the said S. R. Kimball, and requires me to extend this protest, and, being by me sworn on the Holy Evangelists of the Almighty God, did voluntarily, freely, and solemnly declare, depose, and state as follows, that is to say, that said appearer is a citizen of the United States of America; that he solemnly protests against the restriction of liberty and loss of property to which he and other American citizens have been subjected at Alta Vela key and in the city of St. Domingo, to which place they were brought against their will.

The desert key of Alta Vela is some fifteen or twenty miles outside of the most extreme southern point of the Dominican territory, and was apparently open to our temporary occupation.

By an act of the Congress of the United States, approved August 18, 1856, to authorize protection to be given to citizens of the United States who may discover deposits of guano, which declares "that any citizen or citizens of the United States who may have discovered or shall hereafter discover a deposit of guano on any island, rock, or key not within the lawful jurisdiction of any other government, and not occupied by the citizens of any other government, and shall take peaceable possession thereof and occupy the same, said island, or key, or rock may, at the discretion of the President of the United States, be considered as appertaining to the United States."

This appearer, in the month of November, 1859, while in the employ of Messieurs Patterson & Murguiendo, of Baltimore, visited the then desolate key of Alta Vela in search of guano deposits, believing, from all the information they could obtain on the subject, that at no previous time had any nation ever occupied it, or exercised any jurisdiction over it. He found it in a barren desert, wholly destitute of water, but, believing it contained guano, the firm of Patterson & Murguiendo decided to undertake the heavy outlays which it was necessary to incur before its resources could be brought to use.

Due notice of its discovery was filed in the Department of State at Washington, and possession taken accordingly, in the firm conviction that he was acting under a right recognized by the laws and protected by the flag of his country.

This appearer and associate, now present in Santo Domingo, commenced operations and in the employ and at the responsibility of the above-mentioned firm of Patterson & Murguiendo, of Baltimore, on the 23d of March, 1860, and never heard of any objections thereto until they were violently ejected on the 23d of October last.

During this seven months the Dominican government paid no more attention to the proceedings of the Americans at Alta Vela than did the authorities of the neighboring English and Spanish colonies. If this non-interference for seven months was due to the fact that the Dominican government had no cognizance of the state of affairs at Alta Vela, that circumstance in itself is an evidence that this appearer had some reason for supposing that this neglected key was not under the care or jurisdiction of the Dominican Republic.

Nevertheless, this appearer, in the sincere desire to maintain a peaceable as well as a strictly legal position, would have been ready to evacuate Alta Vela, or to make a suitable and satisfactory arrangement for its development with the Dominican or any other government which at any time had made manifestation of its sovereign rights over Alta Vela key. Unfortunately this appearer never received any information or notice of the kind until it came in the unexpected form of the forcible capture of the party who thought themselves legally at work there under the above-cited act of the Congress of the United States.

The Dominican war schooner La Merced presented itself before Alta Vela on the 23d of October, and ordered the Americans to quit the key in twenty-four hours.

The laborers had no means of leaving the place, except by the Dominican vessel, and had no alternative but to come in her as captives to the city of St. Domingo.

As this appearer was absent at the time on a short trip to Jamaica, in the schooner Alice Mowe, the acting manager, Mr. Miller, requested permission to leave one man on the key to take charge of the property and to inform this appearer on his return of the summary ejectment of the laborers, in order that he might make arrangements to relieve them from their constrained residence at Santo Domingo and provide conveyance for them to the United States. This was refused, and twelve persons, with a portion of the property, were brought to this city.

This appearer would here state one prominent reason why he supposed neither of the two nations occupying the large island of Hayti assumed any government over Alta Vela.

He had visited this key in the successive years of 1842, 1843, and 1844, and frequently afterwards, up to the present year of 1860, and on no occasion had ever met a Dominican citizen or official in that vicinity. In all these visits, and during the whole period in which this appearer and others in the employment of the firm were openly landing materials, preparing the works and pursuing the business under the full conviction that there was no lawful hindrance to their operations, the only persons they saw belonging to the mainland were the Haytiens, whom, in all these cases, they found in the unmolested possession of the island of Beata.

The Haytiens claim sovereinnty over the nearest main shore, and they for years have been the sole occupants of Beata, and therefore they, if any, had the power to claim jurisdiction over Alta Vela, but they seemed to abandon it as a useless, outlying key. A party of Haytiens were living on the island of Beata while this appearer was preparing the works, and their government sent an officer with an armed boat to inquire into the character of the occupation of

Alta Vela, but, after satisfying himself that the Americans were engaged in a purely industrial enterprise, withdrew in all courtesy.

Thus, while the government of Hayti claims sovereignty over the nearest inhabited shore, and asserts that she permits none but her own citizens to occupy the adjacent island of Beata, it did not pretend to interfere with the Americans at Alta Vela.

As Hayti alone gave the usual evidences of a *de facto* government in that quarter, this appearer respectfully submits that he and his associates were not reprehensible in any of their acts at Alta Vela, and that they are entitled to the restitution which they hereby claim of the Dominican Republic for the losses of property and other damages which they have sustained through the harsh and needless precipitation of its officers.

And the said appearer doth further declare and say that he arrived off this port on the 15th of November, 1860, to communicate with the United States Consul; and being informed by him that the Dominican government had placed at his disposition the men and effects brought from Alta Vela, and that for the purpose of receiving and embarking said men and effects on board the schooner Alice Mowe, of Baltimore, under his command without encountering any difficulties, being ready for sea, he made the application for a permit to proceed to sea, and was then informed that said vessel could not leave the port. Wherefore the said S. R. Kimball, master, hath protested, as by these presents I, the said Commercial Agent, at his special instance and request, do publicly and solemnly protest against the acts of the Dominican government, as authorities, and all and every person or persons whom it doth or may concern, and do declare that all losses, damages, and expenses that have happened to the said S. R. Kimball, and all others that may be interested or who shall hereafter suffer or sustain damage or injury, ought to be borne by those to whom the same, by right, may appertain.

In testimony whereof this appearer has subscribed his name, and I, the said Commercial Agent, have granted the said master this public instrument under my hand and the seal of this Commercial Agency, to serve and avail him, and all others whom it doth or may concern, as need and occasion may require.

JONATHAN ELLIOTT,
United States Commercial Agent.
S. R. KIMBALL.

APPENDIX No. 21.

[Translation.]

DOMINICAN REPUBLIC, GENERAL COMMANDER OF THE MARINE OF THE PORT OF THIS CAPITAL.

My government is alarmed at the disagreeable advices that foreigners had violated the Dominican territory, invading the island of Alta Vela—that belongs to the legal jurisdiction of the province of Azua—with the object of exporting guano, which said island encloses. I am authorized, that in their name, and invoking the right acknowledged by all civilized nations, to dislodge with the greatest brevity any foreigners that may be occupying this island, as well as the island of Beata.

I count beforehand that you will not part from the justice and moderation characteristic of an American; and reflecting with maturity the consequences that circumstances like the present would bring on the least infraction of international rights, you will not hesitate one moment in leaving the island of Alta Vela.

I give you twenty-four hours to leave the island, making you responsible for the consequences if I receive a negative from you, in which case I will execute to the letter my superior orders.

Before Alta Vela, October 23, 1860.

JUAN EVERTZ.

Mr. JOHN A. MILLER.

APPENDIX No. 22.

ALTA VELA.

DEAR SIR: I have the houner to enform yoe that I recived your offical letter of this date and in answer to the same I am sorry that Capt. Cimbal my employer is at present at Jamaca I have given this morning all enformation possible to the commission send by yoe on shor but under the present circumstance as yoe request ime to retire with all the lebores and articles allouwing only twenty-four hours tyme fore the same I inform yoe that I have no vessel at present to Shipe, and at the same tyme Obying your orders and not opposing myself in any way or maner there fore I am at you desposial and please allow me to leave one man on the Island to take care of the articles left behind and to delivre a letter to Capt. R. S. Kimbal on his arrival from jamaca, As a man emploid I cannot say any more

Remeaning Sir,
your must obedent servand

J. A. MILLER.

General JEANE EVERTZ,
Commander of the Schoener-of-war Merced.

APPENDIX No. 23.

[Translation.]

DOMINICAN REPUBLIC, GENERAL COMMANDING MARINE OF THE CAPITAL.

Perfectly advised of the contents of your note of yesterday, I make known to you that the vessel under my command is at your disposition, and that I will, with much pleasure, receive you in it, accompanied by all your men and the effects that you may have on the island.

I regret that it is not possible for me to give you a new proof of my good wishes by granting you the privilege of leaving one man on the island of Alta Vela.

My instructions are very positive, and I would overleap them if I would leave on said island the least vestige of foreign occupancy.

I will make every effort that lies in my power that all your effects may be put on board, and that nothing of any value may be left which you may not entirely abandon.

Front of Alto Velo, October 24, 1860.

JUAN EVERTZ.

Mr. JOHN A. MILLER.

APPENDIX No. 24.

[Translation.]

MINISTRY OF FOREIGN RELATIONS,
St. Domingo, October 28, 1860.

SIR: Having ordered one of our vessels of war to visit the islands of Beata and Alta Vela, there have been found on the last twelve men occupied in explor-

ing the guano, which is the property of this republic, who say they are Americans; and although the rights of men would give us the right of trying them and punishing them, as corresponds, my government, having due deference to the nation to which they belong, has disposed that they be put at your disposal, with all their effects which have been found on said island, which they used in shipping and digging guano.

My government, nevertheless, reserves the right to make reclamation where it may correspond, for all the values extracted from the republic.

FELIPE D. F. DE CASTRO.

U. S. COMMERCIAL AGENT, *St. Domingo.*

APPENDIX No. 25.

COMMERCIAL AGENCY OF THE UNITED STATES OF AMERICA,
St. Domingo, October 28, 1860.

SIR: I have received a letter of this date from the Minister of Foreign Affairs of this republic, wherein he states that "yourself, men, and effects are placed at my disposition;" consequently you will find lodgings for your men, and receive the effects belonging to the firm you are working for, from General John Evertz, commander of this port, to whom, I presume, this government has given the necessary instructions.

I am, sir, your obedient servant,

JONATHAN ELLIOTT,
United States Commercial Agent.

Mr. JOHN A. MILLER, *of Baltimore.*

APPENDIX No. 26.

[Translation.]

DOMINICAN REPUBLIC, GENERAL COMMANDING THE MARINE OF THE CAPITAL OF THE REPUBLIC.

ST. DOMINGO, *October* 28, 1866.

Mr. CONSUL: By orders of the superior government, I put at your disposal the twelve American men and their effects, brought from Alta Vela to this port, which you will find on board of the man-of-war Merced, which will be discharged to-morrow.

JUAN EVERTZ.

U. S. COMMERCIAL AGENT, *St. Domingo.*

APPENDIX No. 27.

COMMERCIAL AGENCY OF THE UNITED STATES OF AMERICA,
City of St. Domingo, October 29, 1860.

SIR: I have the honor to acknowledge the receipt of your note of the 28th instant, in which you inform me that one of your vessels of war found twelve Americans extracting the guano from the island of Alta Vela, being property of the *Dominican Republic;* and although by the right of nations they could be judged and punished, that your government, for the great deference for the nation to which they belong, place them and all effects found with them at my disposition; all of which I will, with pleasure, communicate to my government by the first opportunity.

I am informed that notice has been left at Alta Vela for the agent of the firm who are taking this guano to come to this city, and that he may be expected within two weeks. I have reason to believe that on his arrival here all will be settled to the entire satisfaction of your government, without having to appeal to that of the United States.

I have the honor to be, &c.,

JONATHAN ELLIOTT.

Hon. MINISTER OF FOREIGN AFFAIRS
of the Dominican Republic.

APPENDIX No. 28.

SCHOONER ALICE MOWE,
Off Port of St. Domingo, November 15, 1860.

SIR: A short time since I discovered a small deposit of guano upon the island of Alta Vela, and took possession of it under act of Congress passed in August, 1856, for the purpose of removing the guano, believing at the time that it was not claimed exclusively by either of the governments of the island of St. Domingo, as I know it to have been used by the citizens of both, for many years, as a fishing station. I, however, notified our government of the fact of possession, and while waiting a reply continued to collect and ship a small lot of guano, and in October landed a party of men and materials for the better working of the same, at the same time being ready to treat with either party who might establish a claim, and to pay for what I had taken away.

On the 24th of October, while absent from the island, a vessel of war from St. Domingo city came to the island and took away all the men and materials (including two mules and carts) which I had landed, and have brought them to the city. As I disclaim any intention of trespassing upon the government, I am ready to pay a fair rate for what has been removed, and to purchase what remains, as well as what may hereafter be discovered, if the government will give me back my property and permission to occupy the island for that purpose. I make this offer upon the supposition that they have a legal right to the island.

Will you be pleased to inform me if I can enter the port for the purpose of negotiating through your office with the government, without having my vessel or myself detained? If I cannot, and it is in your power, be so good as to send my men off to the ship. If neither of these can be done, drop me a few lines advising me of the condition of my men, and how to act. I will, of course, bear all expenses. I am connected with Messrs. Patterson & Murguiendo, merchants of the highest respectability and influence in the city of Baltimore, and with government. The senior partner is a personal friend of the Secretary of State, and they will sustain me in any arrangement I may make.

I will lay off and on the port and await your instructions.

I am, sir, respectfully, your obedient servant.

S. R. KIMBALL.
Master of Schooner.

Hon. CONSUL *of the United States.*

APPENDIX No. 29.

COMMERCIAL AGENCY OF THE UNITED STATES OF AMERICA,
City of St. Domingo, November 15, 1860.

SIR: All your men, and all the articles taken from the island of Alta Vela by order of this government, have been placed at my disposition, and are here awaiting your arrival.

I do not believe you will encounter any difficulty in entering the port, as this government has informed me that their reclamation for the guano taken is to be upon those who have to answer for the same. I therefore consider that you and your vessel come under this same act, and must be treated in the same manner as the men and articles brought from Alta Vela.

Your obedient servant,

JONATHAN ELLIOTT,
United States Commercial Agent.

S. R. KIMBALL,
Master of the Schooner Alice Mowe.

APPENDIX No. 30.

[Translation.]

MINISTRY OF FOREIGN RELATIONS,
St. Domingo, November 19, 1860.

SIR: The government, desiring not to embarrass the captain of the American schooner Alice Mowe, which has, contrary to our fiscal laws, come upon our territory without our authority, and has taken away 1,400 tons of guano from the island of Alta Vela, we propose, through you, a friendly arrangement, which has for its basis the indemnity of the values taken, ignoring on our part, if it should be executed, all other claims which we have, for having used a force in our dominions, and taken from us a natural product for which we did not wish to negotiate with others who, before, had proposed to buy.

The bad result that the interview which you asked produced between the subscriber and the captain referred to, puts me to the necessity of reiterating to you in writing the demand of my government, so as to advise through you the interested party, that in case of his refusing to indemnify the republic satisfactorily for the damage caused, we will be under the necessity of holding him for the competent tribunal, and that he remain bound to the responsibilities that the law may impose.

F. D. DE CASTRO.

UNITED STATES COMMERCIAL AGENT.

APPENDIX No. 31.

COMMERCIAL AGENCY OF THE UNITED STATES OF AMERICA,
City of St. Domingo, November 20, 1860.

Señor MINISTER: I have the honor to acknowledge the receipt of yours of yesterday, the 19th, in which you state that your government require indemnification for the guano taken from the island of Alta Vela by an American company of Baltimore, said guano being the property of the Dominican Republic.

The captain of the American schooner Alice Mowe, who is in the employ of the said company, is desirous to settle amicably, and wishes to know the value that you place upon the same, and to satisfy you in every way in his power. He authorizes me to give you the following information, which can be sworn to and proved, if necessary:

There has been taken by the

	Tons.
Bark Ellen Morrison	231
Schooner Frémont	83
Schooner Fred. Howell	41

	Tons.
Schooner Jenny Morton	297
Brig Mary Morton	250
Schooner Alice Mowe	131
Total	1,033

The average price that this guano sold for was $14 per ton; the expenses of labor, freight, insurance, charges, &c., deducted from this will give some idea of the price to be fixed on the guano as it lies.

This guano serves only to mix with that brought from the Pacific, as it is well known that in countries where it is exposed to rain it loses all its most valuable qualities.

I am also requested to say that Captain Kimball is desirous to enter into a contract with the Dominican government for the purchase of guano, if the terms are such as the company he is employed by can agree to.

I have the honor to be, &c.,

JONATHAN ELLIOTT.

Hon. MINISTER OF FOREIGN AFFAIRS
of the Dominican Republic.

APPENDIX No. 32.

COMMERCIAL AGENCY OF THE UNITED STATES OF AMERICA,
City of St. Domingo, November 28, 1860.

SIR: Captain Kimbal, of the American schooner Alice Mowe, who entered this port for the purpose of taking away the men and materials brought here from Altavela, by order of the Dominican government, and which were placed at my disposition, informs me that he has twice made application to you to permit him to go to sea, and has been refused. I now request that you will let Captain Kimball proceed with his vessel to sea immediately, without further hindrance, or please state to me in writing the reasons why he cannot leave this port.

I have the honor to be, &c.,

JONATHAN ELLIOTT,
United States Commercial Agent.

Señor COMMANDER
of the port of St. Domingo City.

APPENDIX No. 33.

[Translation.]

NOVEMBER 28, 1860.

DEAR SIR: I have received your letter under date of to-day. The reason I have had for not permitting the clearance of Captain S. R. Kimball, of the American schooner Alice Mowe, is because I have so been ordered by superior orders which I have received.

JUAN EVARTZ.

U. S. COMMERCIAL AGENT, *St. Domingo.*

APPENDIX No. 34.

[Translation.]

MINISTRY OF FOREIGN RELATIONS,
St. Domingo, November 28, 1860.

Mr. AGENT: I have made known to the government the contents of your communication of the 20th instant, which informs me that the guano exported from the island of Alto Velo by American citizens is about 1,033 tons, exported in six different vessels, and proposes to satisfy the republic for the corresponding value.

My government sees with pleasure that those gentlemen have acknowledged without difficulty our good right to the property on Alta Vela, and their disposition to indemnify us for the value of the guano. The government has positive information that a ton of guano in most ports of the United States is worth from $40 to $50, and not about $14, as stated by Captain Kimball; but wishing to average this disagreeable matter, and in view of the expenses of shipping it, freight, &c., it fixes the price of royalty at $8 per ton.

If, at this price, which I think is moderate, the parties may object, the question can be settled by arbitrators, named to the satisfaction of both parties.

LAVASTIDA,
Minister of War.

UNITED STATES COMMERCIAL AGENT.

APPENDIX No. 35.

No. 15.] COMMERCIAL AGENCY OF THE UNITED STATES OF AMERICA,
City of St. Domingo, November 29, 1860.

Señor MINISTER: I have the honor to acknowledge the receipt of your note of yesterday, and after making known the contents of the same to Captain Kimball, master of the schooner Alice Mowe, of Baltimore, he tells me that he cannot agree to the propositions contained therein.

I beg leave further to state, that he maintains his right to claim damages for his detention here, and also on behalf of the firm of Patterson & Murguiendo, of Baltimore, who took possession of the guano at Alta Vela under the act of the United States Congress of August, 1856, and his reasons are fully given in the accompanying protest.

He entered this port to embark the men and effects placed at my disposition, believing that your government would keep to the assurance given in the official note to me of the 28th of October, wherein it is stated that the men and articles brought from Alta Vela were, for the great deference for the nation to which they belonged, placed at my disposition; and that the Dominican government would reclaim from those upon whom the responsibility rested.

I have the honor to be, sir, &c.,

JONATHAN ELLIOTT,
United States Commercial Agent.

Hon. MINISTER OF FOREIGN AFFAIRS
of the Dominican Republic.

APPENDIX No. 36.

DEPARTMENT OF STATE,
Washington, D. C., January 14, 1861.

GENTLEMEN: I have to acknowledge the receipt of your memorial and accompanying papers, complaining of an interference by Dominican authorities with

the persons and property placed by you on the island of Alta Vela, for the purpose of collecting guano, and asking this government to afford you "such relief and redress as may be in its power for the losses" alleged to have been sustained thereby.

In reply, I have to inform you that the government is entirely disposed to protect you in the enjoyment of any rights which you may have legally acquired to the guano on that island. Inasmuch, however, as the Dominican Republic is understood to claim jurisdiction over Alta Vela—a claim which another applicant was informed, in June last, might probably be asserted on account of the position of the island—the Department deems it proper, before taking other steps in the matter, to address a communication to its special agent, Mr. Cazneau, with instructions to ascertain from the Dominican government the grounds on which its claim to the island is based. Awaiting his reply, your papers shall be filed.

I am, sir, your obedient servant,

JEREMIAH S. BLACK.

Messrs. PATTERSON & MURGUIENDO, *Baltimore, Md.*

APPENDIX No. 37.

DEPARTMENT OF STATE,
Washington, D. C., January 15, 1861.

SIR: In your despatch No. 15, of the 17th of November last, you refer to the forcible occupation of the island of Alta Vela by troops of the Dominican government, and the expulsion therefrom of persons engaged in procuring guano for a commercial house in the city of Baltimore.

You will at once, if you have not already done so, request the attention of the authorities to this event, and learn particularly the grounds upon which they claim jurisdiction of the island, in order that this government may know what measures are necessary to protect the interests of our citizens in that quarter.

I am, &c.,

JEREMIAH S. BLACK.

W. L. CAZNEAU, Esq.

APPENDIX No. 38.

SANTO DOMINGO, *February* 19, 1861.

SIR: I have the honor to acknowledge the receipt of your despatch No. 7, January 15, respecting the forcible possession of Altavela by troops of the Dominican government of persons engaged in procuring guano for a commercial house in the city of Baltimore, and I will endeavor to place before you a distinct account of all the circumstances of the case, together with the reasons assigned by the Dominican government for its summary action in the premises.

Alto Velo is a small desert cay, lying, according to some charts, more than five leagues, and by the map of this island, published by order of the government, somewhat less than that distance, to the southward of that "border belt" which has been completely desolated by the wars between the Dominican and Haytien Republics. Neither government permits the citizens of the other to live on this frontier, and a long margin of the main land nearest to Altavela cay is a depopulated waste, without settled inhabitants, without cultivation, and in point of actual fact without a government.

The Dominican government claims this depopulated district because it is within the line of the old Spanish colony, which now constitutes the territory of this republic. By a law of 1855 it is defined as a portion of the province of Azua,

together with the adjacent islets, Beata and Altavela, which are there named as dependencies of that province. Except, however, in the descent of the war schooner Merced on the American guano diggers, last October, I cannot ascertain that this republic has ever exercised the sovereign duties of protection or government on either Beata or Altavela since it has been a nation. In discussing this point with the Minister of Foreign Affairs, I requested him to cite an instance in which a *de facto* jurisdiction had been extended over these outlying cays; but he was unable to go beyond the two days devoted to the capture of the American laborers, and the removal and destruction of their property by the Dominican forces.

The neighboring island of Beata has a scant supply of fresh water, of which Altavela is entirely destitute, and it is, therefore, occasionally occupied by the Haytien fishermen; but, so far as I can learn, Dominicans rarely, if ever, venture there.

The Haytien authorities made a visit of inquiry to the Americans at Altavela very soon after they commenced work, five months before any Dominicans whatever seem to have approached the place. On being informed that an American guano company had taken possession of it under the same act of Congress which protected another company at work on the similarly situated and not distant islet of Nevasa, the Haytien officer withdrew without offering them any molestation.

The American explorers had, in their repeated visits to the cay, always found it desolate, unused, and, to all appearances, outside of that care and charge which is the usual evidence of settled jurisdiction with any recognized government, and they publicly entered upon its possession as a guano deposit, within the scope and meaning of the act of Congress of August, 1856, "to authorize protection to be given to citizens of the United States who may discover deposits of guano."

As the government of Hayti, which exercises the only visible jurisdiction in that neighborhood, and disputes with the Dominican Republic sovereignty over the entire coast opposite, had—after an official visit of inquiry, and with a full knowledge of their tenure of occupation—permitted the guano company to continue their business without remonstrance, our citizens were not inexcusable, as I remarked to the Dominican executive, in supposing themselves in justifiable possession of the cay. If there could be any doubt of the completeness of their right of occupation, under the act of Congress before cited, they seemed entitled to consider themselves tenants-at-will of the government of Hayti, rather than trespassers on the soil and sovereignty of the Dominican Republic, which had never given them any intimation of its claims until the very day it sent a military expedition to dislodge them.

When this occurred I did not fail to inquire of the Dominican authorities why they had permitted these citizens to remain on Altavela for seven consecutive months steadily at work, investing capital and labor in opening a small unbroken guano field, and preparing it for extensive and profitable development, without warning them of the claims now put forth by their government, and why, instead of allowing them a calm and legal hearing, these men were carried away by a sudden military assault on their persons and flag, destroying much of their property, and bringing the parties to this city in an undefined captivity—uncertain whether they were to regard themselves as prisoners of war, though in a time of profound peace between their respective nations, or men to be tried as criminals for some nameless and unexplained culpability.

To these questions I was never able to obtain a lucid and satisfactory answer; but I am conscious that my remonstrances had the effect of deciding this government to abstain from following up the harsh measures initiated at Altavela.

W. L. CAZNEAU.

Hon. J. S. BLACK, *Secretary of State.*

APPENDIX No. 39.

JANUARY 25, 1866.

SIR: Enclosed find bond of claimants for Alta Vela, a guano island, which please to direct the filing of in the proper office.

J. S. BLACK.

SECRETARY OF STATE.

APPENDIX No. 40.

Known all men by these presents, that we, Abram B. Patterson and Prudence de Murguiendo, [partners trading as Patterson & Murguiendo,] and Andrew C. Elliot, all of the city of Baltimore and State of Maryland, are held and firmly bound unto the United States of America in the sum of fifty thousand dollars, lawful money of the United States, to the payment of which sum well and truly to be made to the United States of America, their certain attorney or assigns, we and each of us bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals, and dated this thirteenth day of March, eighteen hundred and sixty-one.

Whereas the said Patterson & Murguiendo, discoverers [through their agent, Captain S. R. Kimball] of a deposit of guano upon the island or key of Alta Vela, in the Caribbean sea, desire to comply with the provisions of the act of Congress of eighteen hundred and fifty-six, chapter 164, approved August eighteenth, eighteen hundred and fifty-six, entitled "An act to authorize protection to be given to citizens of the United States who may discover deposits of guano," by filing a bond, as by said act of Congress required; and whereas all the other requirements of the said act of Congress having been fully and in due form complied with, the President of the United States has designated the sum of fifty thousand dollars as the penalty of the said bond, and such sureties as shall be approved by the district attorney of the United States for the district of Maryland to be sureties thereupon:

Now, the condition of this obligation is such, that if the said Patterson & Murguiendo, their representatives and assigns, upon being allowed, as by said act of Congress provided, the exclusive right of occupying said island or key of Alta Vela, for the purpose of obtaining guano therefrom, and selling the same to be used as in said act of Congress is further provided, shall deliver the said guano to citizens of the United States for the purpose of being used therein, and to none others, at a price not exceeding eight dollars per ton for the best quality for every ton thereof delivered alongside a vessel in proper tubs, within reach of ship's tackle, or four dollars per ton in its native place of deposit, and provide all necessary facilities for that purpose within such time as the President of the United States shall designate; and shall, in all other particulars, comply with the terms imposed upon parties to be allowed such exclusive right by the second section of the act of Congress aforesaid, in reference to and under which this bond is executed and is only to be binding and operative, then the above obligation shall be void; otherwise, to remain in full force and effect.

ABRAM B. PATTERSON. [L. S.]
ALLEN A. CHAPRON. [L. S.]
P'E DE MURGUIENDO. [L. S.]
ANDREW C. ELLIOT.

Witnesses:
C. WESTON.
A. R. KASIN.
B. M. GRACEY.

DISTRICT OF MARYLAND, *to wit:*

Before me, the subscriber, personally appeared, this fourteenth day of March, eighteen hundred and sixty-one, P. de Murguiendo and Andrew C. Elliott, and made oath that they are worth, in the aggregate, fifty thousand dollars, to the best of their belief, over and above their just debts and liabilities.

JOHN HANAN,
United States Commissioner for the District of Maryland.

OFFICE OF THE DISTRICT ATTORNEY OF THE UNITED STATES,
April 6, 1861.

I certify that the securities to the within bond are jointly sufficient to pay the penalty of the within bond.

WILLIAM MEADE ADDISON,
United States Attorney.

APPENDIX No. 41.

ALTA VELA ISLAND.

The memorial of Patterson & Murguiendo, claiming damages for being dispossessed by the Dominicans of the island of Alta Vela, describes them as "having, in the month of February, 1860, discovered a deposit of guano on the islet of Alta Vela, *the same not being within the lawful jurisdiction of any other government.*"

This, if a direct averment, would conform to the act of Congress authorizing the taking possession of such islands. It is, however, put in the way of recital and introduction. I do not think that the memorialists understood themselves as swearing positively to the statement.

In a subsequent part of the memorial it is stated that the claimants "furnished to the State Department satisfactory evidence that such islet or key, known as Alta Vela, was not, at the time of the discovery thereof and at the time of the taking possession and occupation thereof by the firm, *in the possession or occupation of any other government*, or of the citizens of any other government." The exact statement in the affidavit filed by them of Captain Kimball, who made the discovery, is, "that at the time of his taking possession *there were no inhabitants or habitations* whatever thereon, or traces of any kind of there ever having been on the island."

Captain Miller, who was mate of the vessel in which the discovery was made, states, in an affidavit made subsequently, that they found "no inhabitants, no water, it being a desolate islet." He states that while he was there some months the only persons who visited it, except some American vessels and the Dominican man-of-war by which they were expelled, were fishermen in fishing boats from Jacmel, Hayti.

In a protest made by Captain Kimball, regarding the expulsion of the party left by him on the islet, he states it to be a desert key some fifteen or twenty miles outside of the most extreme southern point of the Dominican territory, and he states a belief, at the time of its discovery, from all the information then obtainable, that at no previous time had any nation ever occupied or exercised any jurisdiction over the islet. He also states that the *Haytiens* had been for years the sole occupants of the adjacent island of Beata.

In a letter written by Captain Kimball to our consul at St. Domingo on the 30th of November, 1860, he states that he believed at the time of taking possession that it (Alta Vela) was not claimed exclusively *by either of the governments* of the island of St. Domingo, as "I know it to have been *used by the citizens of both for many years as a fishing station.*"

This is all the evidence furnished by the claimants in respect to the questions of jurisdiction and occupation. I think the questions are distinct. Lawful jurisdiction—and this it is which the act of Congress requires to be negatived as a condition to the taking possession of guano islands—may exist though actual possession may not have been taken, or, if taken, has not been maintained. What kind of possession could be kept of a barren islet, destitute of water?

In the case of the Anna, (5 Ch. Robinson, 385,) Lord Stowell, speaking of some islands off the mouth of the Mississippi, uninhabited and resorted to only for shooting and taking birds' neats, says:

"Consider what the consequence would be if lands of this description were not considered as a dependent to the mainland, and as comprised within the bounds of its territory. If they do not belong to the United States of America any other power might occupy them; they might be embanked and fortified! What a thorn this would be in the side of America! It is physically possible, at least, that they might be so occupied by European nations, and then the command of the river would be no longer in America, but in such settlements.

"The possibility of such consequence is enough to expose the fallacy of any arguments which are addressed to show that these islands are not to be considered as part of the territory of America. Whether they are composed of earth or solid rock will not vary the right of dominion, for the right of dominion does not depend upon the texture of the soil."

After referring to this, Halleck (page 131) says that another case, "involving the international right of domain and property, is that of islands in the sea which do not derive their elements on the principle of alluvium and increment immediately from the main shore, but are separated from it by deep channels of a greater or less width. Such islands, if in the vicinity of the mainland, are regarded as its dependencies, unless some one else has acquired title to them by virtue of discovery, colonization, purchase, conquest, or some recognized mode of territorial acquisition. The ownership and occupation of the mainland includes the adjacent islands, even though no positive acts of ownership may have been exercised over them."

It is obvious that the question which, in Lord Stowell's judgment, is the controlling one, is, are the adjacent islands necessary to the security and protection to the mainland, so that their occupation by a hostile power would be dangerous? I think this the rational criterion. It is that upon which the range of cannon has been adopted as fixing the extent of jurisdiction beyond the coast over open water of the sea. But if beyond cannon-shot of the shore an island be found, rocky, desolate, without water, but capable of being made auxiliary to operations of naval war—as a place of deposit for coal, for instance—I think no one would doubt that it would be weak temerity in the sovereign of the adjacent territory to permit its occupation; and it would, I think, be time enough for him to assert his right when he found some one attempting an occupation of a permanent character or under a claim of right.

That he did not drive off fishermen coming from the territory of another neighboring and friendly power should work no impeachment of his right.

It is impossible to fix a precise limit within which the right of jurisdiction from military considerations can be confined. The island of Nantucket, for example, is some thirty miles from the mainland, but if it were this moment wholly desolate and had been too barren to have ever been occupied otherwise than by the visits of occasional fishermen, we should no doubt see danger in an attempt to occupy it under color of right by Englishmen or Frenchmen in the name of their nation. So of the keys which skirt the southern point of Florida.

I do not know the distance of Alto Velo from the mainland, nor from Beata, which lies between. I gather, however, that there is no question of the jurisdiction of the Dominican Republic now, and of either that or Hayti for many years past, over Beata.

Alta Vela, judging from the charts, is near enough to Beata to be deemed an appendage to it, and so an appendage to the mainland, upon the principle that its occupation by strangers would menace the security of both. This appears to be the judgment of the Dominican authorities. They asserted their right as an occasion for it arose. It is for us to disprove it. Both the Secretary and Assistant Secretary of State, having seen these islands more than once, can appreciate better than myself the applicability and force of the considerations here presented. It is enough for me to say that, in my judgment, the memorial and evidence filed by the claimants do not disprove the lawful jurisdiction either of Hayti or Dominica. It is enough that *either* had it, to make it improper for the government to support the claimants in the demand for damages.

E. PESHINE SMITH,
Examiner of Claims.

BUREAU OF CLAIMS, *June* 17, 1867.

APPENDIX No. 42.

Memorandum.

JULY 18, 1867.

A report from the Bureau of Claims, concerning Alta Vela island, made on the 17th of June last, was submitted by the Secretary of State to the President in cabinet. The conclusions of the report were accepted by the President.

APPENDIX No. 43.

WASHINGTON, *July* 22, 1867.

Mr. PRESIDENT: I enclose you a brief from which you will learn without difficulty the facts of the claim made by Messrs. Patterson & Murguiendo, of Baltimore, for restitution of the island of Alto Velo. My only request is that you read it, and then do what, in your judgment, is fit and proper.

The injury these parties complain of was committed more than seven years ago. They demanded the intervention of their own government immediately afterwards. They, however, consented not to press the subject at the time, lest it might aggravate the troubles of the country; but this was with the distinct understanding that the delay should not be charged upon them or allowed to affect their rights. Since the war the Department of State has exhibited so strong an inclination to do nothing, that the sufferers are compelled at last to think of looking elsewhere for a remedy.

The wrong suffered by these men is so grievous, the illegality of it is so palpable, and the faith of the United States is so solemnly pledged to restore their property, that their *final* success in the pursuit of justice can hardly be doubted. The State Department has given no reason for its inactivity; we can only wonder what it means.

Patterson & Murguiendo embarked their all in this enterprise; it was an enterprise not only lawful but laudable; they went into it under a solemn promise of protection; they were shamelessly robbed by men who had no color of right, and who acted without the show of excuse; they were utterly ruined, and their business totally broken up.

But if the wrongs of two individual Americans were not sufficient to call for redress, the public and general aspect of the case ought to be considered. When a citizen of the United States discovers a guano deposit on an unoccupied island, not within the jurisdiction of any other government, and the dis-

coverer takes the proper steps under the act of 1856, such island becomes annexed to the Union and part of the country. To expel the American occupant under such circumstances is like any other invasion of our territory; to submit is to acknowledge either our inability or our unwillingness to protect our own people. The insult to our flag is as gross as if it had been forcibly hauled down from the mast of an American ship, and the injury as plain as if the ship had been forcibly appropriated by a band of pirates.

You will see, I think, that all the conditions required by law to create the American title have been met in this case. It is a guano island. The deposit was discovered by American mariners; it was wholly unoccupied; it was not within the lawful jurisdiction of any foreign government, being situated out on the high sea; it was open to the first taker; it was in fact taken by these claimants. The claimants gave the proper notice at the State Department, and fulfilled whatever else was required by law. They continued with the full sanction of their own government, and with the tacit consent of all others, in full possession for seven months, and after all this they were forcibly, and without even a pretence of lawful authority, detruded. This expulsion was an outrage in itself, but the papers show that it was accompanied with circumstances of great aggravation. The agents, workmen, and employés of the claimants were carried to the island of St. Domingo, and kept in prison for twenty-one days.

What is now asked is, that you send a vessel to Alta Vela, and put Messrs. Patterson & Murguiendo into possession. This is the short and simple way of dealing with the business. Negotiations will be out of place until the parties are *in statu quo*. Re-possession under such circumstances is not only required by public law and in general principle as the first step to be taken, but it is made the duty of the government in this case by an express statute.

The act of 1856 requires the naval force of the United States to be used to maintain the American citizen in his possession. The right or the duty to repel force directed against a possession always includes the right to retake it after it has been unlawfully seized.

I am, with great respect, yours, &c.,

J. S. BLACK,
Counsel for Patterson & Murguiendo.

His Excellency A. JOHNSON.

APPENDIX No. 44.

BRIEF.

In February, 1860, Abram B. Patterson and P. de Murguiendo, merchants, of Baltimore, Maryland, doing business as Messrs. Patterson & Murguiendo, discovered a deposit of guano on the island of Alta Vela, in the Caribbean sea, latitude 17° 28′ 11″, longitude 71° 40′ 30″, lying fifteen or twenty miles beyond the most extreme southern point of Dominican territory. It was then totally barren and desolate, and had been previously altogether uninhabited and unclaimed by any state, people, or government. The firm accordingly took possession of it under the act of Congress of August 18, 1856, in the name of the United States, and took the necessary steps to bring themselves entirely within the protection of the act, by filing notice of the discovery and occupation with the State Department, and entering into the required bond.

The discovery of guano on this island was made by American citizens. The discoverer took, and kept, peaceable possession in the name of the United States. It was not taken out of the possession of any other government or people, occupied

by the citizens of any other government, or within the lawful jurisdiction of any other government. It was, therefore, precisely such an island as the law requires the President to regard as appertaining to the United States, and to protect accordingly.

After the detrusion of the Americans from the island, and while the employés of Messrs. Patterson & Murguiendo were detained *as captives* at St. Domingo, Captain Kimball, the general managing agent, published a formal and solemn protest to the Dominican authorities. Among the sworn and undisputed statements of that document are these: He visited Alta Vela in November, 1859, under general instructions to look for guano deposits. He found guano there, but he also found it a desert and uninhabited key. He returned with men and materials in March, 1860, and never heard of any objection from any quarter to the occupation of the island until the violent ejection *seven months afterwards*. He had been at this key in 1842, '43, and '44, and often after up to 1860, and never saw a Dominican citizen or official in that vicinity. The only persons they saw during the open landing and the seven months' stay at the island were *Haytiens* from the mainland and the *island of Beata*.

They claimed sovereignty over the nearest mainland, and for years were the only occupants of Beata, which was the nearest land to Alta Vela. Captain Kimball's affidavit, made in Baltimore, again recites the main facts of this protest. Captain Miller says, that during his stay at the island he saw none but *fishermen* from *Jackmel* and *Beata*. He unequivocally swears that "Beata is about ten miles from Alta Vela, and is *the nearest land to it*." "Beata is inhabited by the *Haytiens*, and *was so occupied while we were at Alta Vela*." He mentions an incident which accounts for the sudden claim of the Dominicans. The "Merced" carried the Americans off in October, 1860, but she had been there on the 4th of September previous, and landed an officer, who, when told that the Americans were occupying it as a *guano depot*, begged *two bucketfuls to take away*, which specimens revealing the before unknown value of the island, no doubt caused the reappearance of the "Merced" and her act of plunder.

She then, on the 23d of October, 1860, landed an officer and party, who tore down the American flag, destroyed some of the property of the firm, and forcibly removed the rest, with their resident agent and laborers, to the city of St. Domingo. General Evertz took this violent course in no ignorance of our rights as discoverers, occupants, and Americans, but in open contempt of them. He was fully apprised of the nature of our title. A copy of the "guano act" was carefully exhibited to him, and he was thus informed that the honor and faith of the United States was, by express statute, as well as by the public law of the world, pledged to redress the wrong he was about to commit.

On the 18th of October, 1860, five days before the outrage was done, Mr. Cazneau, special agent of the United States, officially advised our consul at San Juan, Puerto Rico, of the intention of the Dominican government "to attack" a party of Americans who were undoubtedly lawfully engaged at Alta Vela, and the consul in town transmitted the warning to the consul at St. Thomas. These officers regarddd the contemplated act as so clearly a deed of naked spoliation, that they used all their exertions to have an American man-of-war at the island in time to oppose force with force.

APPENDIX No. 45.

WASHINGTON, *August* 7, 1867.

Mr. PRESIDENT: A communication has been sent to me from the Department of State, enclosing what the Secretary calls a "memorandum" concerning the island of Alta Vela. This *memorandum* merely declares that you "accepted the conclusions of a report made by the Bureau of Claims on the subject of the island in question."

If this be allowed to pass without notice, it may be used hereafter as evidence that you concurred in an effort to justify the outrage committed on the owners of the island, and in the refusal or neglect of this government to give them the redress to which they are legally entitled. I beg leave, therefore, to submit a very few remarks on it.

The thing does not purport to be an Executive order; it is not signed, or otherwise authenticated; it is not a record or part of a record; it is called a *memorandum*. How, when, where, or by whom it was made does not appear. It proves nothing. It presents you as accepting the conclusions of a report, but the report is not given, and the conclusions of it are not stated. If you had ordered the claim of the owners to be dismissed or to be enforced, and had recorded your judgment either way, it would have been at least intelligible; but a statement that some unknown internal effect was produced on your mind under the influence of a report not given, is senseless when produced as evidence of an executive act.

The memorandum does not say what was the subject-matter of the report. It concerned the island of Alta Vela; but did it discuss the geography, the political jurisdiction, the commercial products of it, or did it investigate the rights of the American owners? If it was upon the latter question, did it conclude that the owners might be plundered by foreigners, or that they ought to be protected according to law?

I am aware that the solicitor of the State Department was engaged for months in getting up a paper on this case. By the present nomenclature of the Department the solicitor may, for aught I know, be a Bureau of Claims. I once saw an unfinished report in his hands, but he had reached no definite conclusions. If a loose memorandum can commit you to a report which is not identified or known, it may be tacked to any paper of that description, whether made before or afterwards.

Even the vague and indefinite statement of the memorandum that you accepted some conclusion of some report concerning the island of Alta Vela, is not true in point of fact. I bring no charges of wilful falsehood against anybody, nor do I know what was the nature of the misapprehension which caused the memorandum to be made. But the fact is not truly stated; my contradiction rests on these grounds:

1st. The memorandum says that you "accepted the conclusion" on the 18th of July. Only one day afterwards, namely, on the 19th of that month, I presented to you a memorial on the case, and explained it somewhat at large. You had then manifestly never heard of the matter before; it was entirely new to you.

2d. After I got this memorandum I told you of it, and you said emphatically that it never could have been officially before you in such a way as to make any impression on your mind.

3d. It is morally impossible that you, with the facts of the case before you, could have done otherwise than order the restitution of the island to its owners. You are wholly incapable of sanctioning, directly or indirectly, a naked robbery like this.

Some other occurrences connected with this business I forbear, at present, to mention. I have said enough to show you the necessity of your personal intervention to save the just rights of these parties. The records of the State Department for seven years have shown that the island was uninhabited, unoccupied, lying in the open sea, far beyond the territorial waters of Dominica. Patterson & Murguiendo, of Baltimore, discovered it as a guano island, took possession, gave notice according to the act of Congress, and kept possession of it for seven months, when their employés and vessels were forcibly driven away and their business broken up.

I am, most respectfully, yours, &c.,

J. S. BLACK.

His Excellency A. JOHNSON.

APPENDIX No. 46.

NEW YORK, *February* 19, 1866.

SIR: If consistent with your duties and compatible with the public interest, will you have the goodness to inform me, at your earliest convenience, what action, if any, was taken in a certain matter that I think was brought to the notice of our government some five or six years ago, regarding our right to work and remove the guano from the island of Alta Vela, lying some fifteen or twenty miles south of the island of St. Domingo, in longitude about six east from Washington. This latter island laid some claim to the guano there, (found originally by an American captain, under the auspices of a Baltimore, Maryland, house,) which claim of St. Domingo was contested by said house, and finally, as I believe, referred to your honorable department for adjudication, and was in abeyance (after some diplomatic correspondence had taken place on the subject between the two countries) at the breaking out of the rebellion. My reasons for making these inquiries are that, understanding the island has not been worked for some years, and the deposits being peculiarly rich, I purpose sending one or more vessels there to bring home cargoes of said guano deposit, if I have the assurance of our right to it and of government protection in the prosecution of said work.

I have not made myself familiar with the pre-emption right, if any, of nations to discoveries of guano deposits, but believe that the flag that discovers has the right of it exclusively. This, and other questions relative to the subject, I would be pleased to be informed upon at your convenience.

With respect, I remain,

HENRY G. ROOT,
Box 439, *New York Post Office.*

Hon. WILLIAM H. SEWARD,
Secretary of State.

APPENDIX No. 47.

DEPARTMENT OF STATE,
February 21, 1866.

SIR: I have to acknowledge the receipt of your letter of the 19th instant, relating to the right of removing guano from the island of Alta Vela. There are already two parties claiming rights as discoverers of that island, and the right is denied by St. Domingo, whose authorities ejected them. The claim made by these parties for damages, covering the whole value of the guano, is still under consideration. If either of them should satisfy this government that their claim is just, and it should require indemnity from St. Domingo, that republic would seem, by making payment, to acquire a right to retain the guano, if it did not originally possess it.

Under these circumstances this government cannot encourage any of its citizens in resorting to the island, unless they obtain the consent of the authorities of St. Domingo. As it lies opposite to a boundary understood to be in dispute between that power and Hayti, it would be a reasonable precaution to seek the consent of Hayti also.

I am, sir, your obedient servant,

F. W. SEWARD,
Assistant Secretary.

HENRY G. ROOT, Esq.,
Box 439, *New York Post Office.*

APPENDIX No. 48.

NEW YORK, *September* 12, 1867.

DEAR SIR: We notice a paragraph in this morning's paper relative to a claim before the State Department of a Baltimore firm against the government of St. Domingo, for being expelled from the island of Alta Vela. Under date of February 26, 1866, in reply to a letter from Mr. H. G. Root, you wrote it would be advisable for him to apply to the government of St. Domingo for the right to remove the guano from Alta Vela. Last year we obtained the consent of said government, and under date of April 24, 1867, informed you of said fact. We have already expended upwards of fifty thousand dollars ($50,000) in the enterprise, and have a large force of men at work: many cargoes have already arrived at northern ports, and we are developing the resources of the island as rapidly as good judgment dictates. We have done so, feeling satisfied our government would acknowledge our right, particularly after informing us how to obtain it. Without trespassing further upon your time, awaiting your reply,

We remain your obedient servants,

THOMAS R. WEBSTER & CO.,
36 *South street.*

Hon. WILLIAM H. SEWARD,
Secretary of State.

APPENDIX No. 49.

DEPARTMENT OF STATE,
Washington, D. C., September 16, 1867.

GENTLEMEN: In reply to your letter of the 12th instant, in relation to the guano deposit on the island of Alta Vela, I have to state that in the letter of the 21st of February, 1866, to Mr. H. G. Root, to which you refer, he was distinctly informed "there are already two parties claiming rights as discoverers of that island, and the right is denied by St. Domingo, whose authorities ejected them; the claim made by these parties for damages, covering the whole value of the guano, is still under consideration." The design and effect of that statement was to warn all persons to whose knowledge the letter might come that they would deal with the subject at their peril, and could acquire no rights which would not be subordinate to those which the other claimants might succeed in establishing. Those rights have not yet been determined. If the claimants are found to have acquired the exclusive right to dig guano under the law regulating the subject, the subsequent grant to you by the Dominican Republic will not affect it, and this government will be under no obligation to aid you in enforcing, as against a foreign state, any rights which flow from a contract with it, into which you voluntarily entered.

Your obedient servant,

WILLIAM H. SEWARD.

Messrs. THOMAS R. WEBSTER & CO.,
36 *South street, New York.*

APPENDIX No. 50.

NEW YORK CITY, 110 *Broadway, January* 21, 1868.

DEAR SIR: I notice in the New York papers that claims are being made by certain persons against the Dominican government, growing out of an alleged injury to persons and property by said government in 1860, upon the island of Alta Vela.

I have the honor to be the president of the Alta Vela Guano Company, a corporation created and doing business under and by virtue of the laws of the State of New York, and am instructed by the trustees thereof to state that this company have expended a large amount of money in the purchase of the grant or lease to take guano from said island made by the government of the kingdom of Spain and confirmed and extended by the Dominican government, and that this company is now in the active prosecution of its business under these grants, which it has in its possession.

The company hope and ask to be advised by you of any necessity or occasion which requires an assertion of their rights in the premises.

Very respectfully, your obedient servant,

L. B. CLARK.

Hon. WMILLIA H. SEWARD,
Secretary of State.

APPENDIX No. 51.

DEPARTMENT OF STATE,
Washington, January 22, 1868.

Mr. L. B. CLARK, 101 *Broadway, New York:*

I have received your letter of the 21st instant, and take notice of the statement therein contained, namely, that you are the president of the Alta Vela Guano Company, a corporation created and doing business under and by virtue of the laws of the State of New York; and that the corporation has expended a large amount of money in the purchase of the grant or lease to take guano from said island, made by the government of the kingdom of Spain and confirmed and extended by the Dominican government; and further, that the corporation is now in the active prosecution of its business under those grants, which grants it has in its possession.

If you think proper you may furnish this department with authenticated proofs of the statements which you have thus made.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

APPENDIX No. 52.

REPUBLICA DOMINICANA.

EL TRIBUNADO USANDO DE SU INICIATIVA PREVIAS LAS LECTURAS CONSTITUCIONALES HA DADO LA SIGUIENTE LEY SOBRE LA ADMINISTRACION PROVINCIAL.

CAPITULO I.

De las Provincias y de sus subdiviciones.

ART. 1°. El territorio de la Republica Dominicana se divide en cinco provincias, segun lo tiene determinado la Constitucion, á saber: Compostela de Azua, Santo Domingo, Santa Crúz del Seybo, Conception de la Vega, y Santiago de los Caballeros.

ART. 2°. La Provincia de Compostela de Azua se subdivide en nueve comunes, y son, Azua, (cabeza de Provincia) Neyba, San Juan, Hincha, Las Matas de Farfan, Banica. Caobas, S. Rafael, y S. Miguel.

El Puesto Militar de Baraona dependerá de la comun de Azua como mas inmediato y el Petitru de la de Neyba.

Las islas adyacentes dependientes de esta Provincia son, la Beata y Alto Velo.

ART. 3°. La Provincia de Santo Domingo se subdivide en sieto comunes que son, Santo Domingo, (cabeza de Provincia,) Bany, San Cristobal, los Llanos, Monte de Plata, Ballaguaná, y Boyá.

La Villa de San Carlos, el Pueblo de San Lorenzo de los Minas y los partidos de Jayna y Santa Cruz dependen de la comun de Santo Domingo.

ART. 4°. La Provincia de Santa Cruz del Seybo se subdivide en tres comunes, Seybo, (cabeza de Provincia) Higuey, y Samaná.

Los Puestos Militares de Hato Mayor y Sabana de la mar; el primero será dependiente de la comun del Seybo, y el segundo de la de Samaná.

Las islas adyacentes á esta Provincia son: Sta Catalina, la Saona, y todas las que se hallen en este litoral.

ART. 5°. La Provincia de la Concepcion de la Vega se subdivide en cuatro comunes á saber: la Vega, (cabeza de Provincia,) Cotuy, Moca, y Macoris.

ART. 6°. La Provincia de Santiago de los Caballeros se subdivide en cuatro comunes: Santiago, (cabeza de Provincia,) Puerto de Plata, Monte Cristi, y San José de las Matas.

Los Puestos Militares de estas comunes son: Alta Mira, de Puerto de Plata, y Dajabon, de Monte Cristi.

CAPITULO II.

Del Gobierno Politico de las Provincias.

TITULO I.—*De los Gefes Superiores Politicos.*

ART. 7°. Cada Provincia será administrada por un Gefe Superior Politico que representará al Poder Ejecutivo y tendrá su domicilio en la cabeza de Provincia.

ART. 8°. El Gefe Superior Politico ejerce sus funciones, conforme á los articulos 140, 141, 142, 143, 144, 145, y 146 de la Constitucion.

ART. 9°. Tiene las atribuciones siguientes:

Primero. La publicacion de las actas y disposiciones del Gobierno.

Segundo. La ejecucion de las Leyes electorales.

Tercero. El ejercicio de la Policia general y la ejecucion de las leyes, decretos, y reglamentos relativos á la policía administrativa.

Cuarto. La vigilancia de los permisos, pasaportes, y otras licencias autorizadas por la ley.

Quinto. La instalacion de los funcionarios publicos, los cuales prestará juramento ante el; cuando la ley otra cosa no determine.

Sesto. La vigilancia, organizacion, y administracion de la guardia civica, conforme á la ley á ella relativa y de los cuerpos de policia en las comunes de su Provincia.

Septimo. La ejecucion de las leyes sobre la conscripcion del ejercito, y sobre todos los negocios militares en que intervenga la autoridad civil.

Octavo. La inspeccion de las carceles y otros establecimientos publicos.

ART. 10. El Gefe Superior Politico cuida y dirije la administracion rural, los trabajos de agricultura: ejecuta las ordenas que contengan donativos y recompensas nacionales: inspecciona las caminos, puentes, y barcas, y todos los trabajos publicos de su provincia segun las leyes, ó en ejecucion de las ordenanzas da la Diputacion Provincial.

ART. 11. El Gefe Superior Politico comunica directamente con el Secretario de Estado del Interior y Policia, al cual dará cuenta de su administracion. Corresponde tambien con los demas funcionarios publicos en todo lo que toca á su Provincia.

ART. 12. Para llenar momentaneamente las funciones del Gefe Superior Politico, por muerte ú otro acaecimiento, será reemplazado por el primer miembro nombrado de la Diputacion Provincial, hasta que el Podor Ejecutivo otra cosa determine.

ART. 13. Los militares llamados por el Presidente de la Republica, al encargo de Gefe Superior Politico de Provincia no podrán cumular dos sueldos; obtarán entre el de su grado militar y el de Gefe Superior Politico.

TITULO II.—*De las Diputaciones Provinciales.*

ART. 14. Las Diputaciones Provinciales quedan organizadas conforme á los articulos 147, 148, 149, 150, 151, y 152 de la Constitucion.

ART. 15. Los Secretarios de las Diputaciones Provinciales nombrados en virtud de la Constitucion reciben durante la sesion los sueldos siguientes.

En las Provincias de Santo Domingo y Santiago por la sesion 40 pesos.

En las de Azua, la Vega y Seybo por la sesion 30 pesos.

Estas dotaciones saldrán de los fondos publicos de la Provincia.

ART. 16. Las Diputaciones Provinciales se reunirán en los primeros quince dias de los meses de Junio y Diciembre. Sin embargo el Gefe Superior Politico podrá convocarla estraordinariamente en el intervalo de las sesiones.

ART. 17. Toda deliberacion de las Diputaciones Provinciales se hará á mayoría absoluta de votos.

ART. 18. El Tribunado ratifica ó anula las resoluciones de las Diputaciones Provinciales, segun el art. 156 de la Constitucion. Y al Congreso toca decidir definitivamente las diferencias entre las diversas Diputaciones Provinciales, entre estas y los Ayuntamientos, y entre las Diputaciones ó Ayuntamientos y el Gobierno.

ART. 19. Las atribuciones de las Diputaciones Provinciales están definidas por el articulo 154 de la Constitucion.

ART. 20. El Gefe Superior Politico, como tambien los miembros presentes en las sesiones deben firmar todas las actas de las deliberaciones de la Diputacion Provincial. Dichas deliberaciones serán inscriptas por su orden de fecha, en un registro numerado y rubricado por el Gefe Superior Politico.

ART. 21. Los fondos Publicos de cada Provincia serán propuestos annualmente por las respectivas Diputaciones Provinciales al Poder Legislativo, el que los votará conforme á la Constitucion. Durante el intervalo las Diputaciones Provinciales tendrán facultad de ordenar el emprestito de fondos de una comun, á la otra, para el servicio publico, siempre que los ingresos de esta escedan al egreso, no obstante el debido informe al Poder Legislativo en su procsima sesion.

TITULO III.—*De la Secretaría des los Gefes Superiores Politicos.*

ART. 22. Cada Gefe Superior Politico tendrá un secretario. Este empleado será nombrado por el Poder Ejecutivo y recibirá del Erario publico el sueldo siguiente.

En la Capital 480 pesos por año.

En la Provincia de Santiago 420 pesos por año.

En las Provincias de Azua, la Vega, y Seybo 300 pesos por año.

Ademas de estos secretarios el Gefe Superior Politico, puede, si lo ecsige el servicio publico pedirle al Poder Ejecutivo un copista, que gozará de la mitad del sueldo asignado á los Secretarios.

ART. 23. Ninguno puede ser empleado á la vez en la Secretaria de un Gefe Superior Politico y en la de una Diputacion Provincial ó Ayuntamiento.

ART. 24. Los Gefes Superiores Politicos llevarán un ceñidor con los colores Nacionales y franja de canelon de oro.

Queda derogada toda Ley y disposicion que sea contraria, y será enviada al Consejo Conservador para su sancion segun lo determina la Constitucion.

Dada por la camara del Tribunado á los 28 dias del mes de Mayo del año de 1845 y 2°. de la Patria.

El Congreso Nacional, EN NOMBRE DE LA REPUBLICA DOMINICANA: ejecutese la *Ley sobre la Administracion Provincial*, que será enviada al Poder Ejecutivo para su promulgacion dentro de cuarenta y ocho horas.

Dada en la Ciudad de Santo Domingo, Capital de la Republica á los nueve dias del mes de Junio del año degracia de mil ochocientos cuarenta y cinco y 2°. de la Patria.—El Presidente del Congreso, *Buenaventura Baez.*—Los Secretarios, *Bernardo Secundino Aybar—Juan Nepomuceno Tejera—Juan Bautista Ariza.*

Cumplase, comuniquese, y circule en todo el territorio de la Republica Dominicana. Dado, sellado, y refrendado en el Palacio Nacional de Santo Domingo á los nueve dias del mes de Junio de mil ochocientos cuarenta y cinco y 2°. de la Patria.—El Presidente de la Republica, SANTANA.—Por el Secretario del Interior y Policía: el Secretario de Estado del Despacho de Justicia, Instruccion Publica y relaciones estrangeras—*Bobadilla.*

APPENDIX No. 53.

REPUBLICA DOMINICANA.

LA CAMARA DE REPRESENTANTES.

Usando de su iniciativa, y considerando que es de absoluta y urgente necesidad reformar las actuales Leyes vigentes, por no guardar perfecta armonía, en algunas disposiciones y en su órden numèrico, con el Pacto fundamental revisado en Febrero último, previas las lecturas Constitucionales ha dado la siguiente:

LEY SOBRE ADMINISTRACION PROVINCIAL.

CAPITULO PRIMERO.

De las Provincias y sus divisiones.

ART. 1°. El territorio de la República se divide en cinco Provincias, segun lo tiene determinado la Constitucion; á saber. Compostela de Azua, Santo Domingo de Guzman, Santa Cruz del Seybo, Concepcion de la Vega, y Santiago de los Caballeros.

ART. 2°. Las Provincias se subdividen en Comunes, Puestos Militares, y Secciones.

ART. 3°. No podrá erigirse, en lo venidero, un Puesto Militar en Comun, si no cuenta conuna poblacion de tres mil habitantes á lo ménos; y que esta medida sea considerada por el Congreso como conveniente al interés publico.

ART. 4°. La Provincia de Compostela de Azua se subdivide en las Comunes siguientes: Azua, cabeza de Provincia, Neyba, San Juan, las Matas, Bánica, Hincha, San Rafael, San Miguel, y Caobas.

El Puesto Militar de Barahona dependerá de la Comun de Neyba.

Las Islas Adyacentes dependientes de esta Provincia son: la Beata y Alto Velo.

ART. 5°. La Provincia de Santo Domingo de Guzman se subdivide en siete Comunes que son: Santo Domingo, cabeza de Provincia, Baní, San Cristóbal, Guerra, los Llanos, Bayagüana, Monte Plata, y Boyá.

La Villa de San Cárlos dependerá de la Comun de Santo Domingo, y el Puesto Militar de San José de Ocoa, de la de Baní.

ART. 6°. La Provincia de Santa Cruz del Seybo se subdivide en cuatro Comunes, que son: Seybo, cabeza de Provincia, Hato Mayor, Higüey, y Samaná.

El Puesto Militar de Sabana de la Mar será dependiente de la Comun de Samaná, y el de Macorís, de la de Hato Mayor.

Las Islas adyacentes á esta Provincia son: Santa Catalina, la Saona, y todas las que se hallen en ese litoral.

ART. 7° La Provincia de la Concepcion de la Vega, se subdivide en cuatro Comunes que son: la Vega, cabeza de Provincia, Cotuy, Macoris y Moca.

El Puesto Militar de Jarabocoa depende como mas inmediato, á la Comun de la Vega.

ART. 8°. La Provincia de Santiago de los Caballeros se subdivide en cuatro Comunes que son: Santiago, cabeza de Provincia, Puerto Plata, Monte Cristi, y San José de las Matas.

Los Puestos Militares de esta Provincia son: Alta Mira, que corresponde á la Comun de Puerto Plata; Sabaneta, á san José de la Matas; y San Lorenzo de Güayubin á la de Monte Cristi, que comprende todo el territorio que formaba antes la de Dajabon.

CAPITULO SEGUNDO.

Del Gobierno Politico de las Provincias.

TITULO PRIMERO.—*De los Gobernadores Politicos.*

ART. 9°. Cada Provincia será administrada por un Gobernador Político, que representará al Poder Ejecutivo, y tendra su domicilio en la cabeza de Provincia.

ART. 10. El Gobernador Politico ejercerá sus funciones conforme á los art. 105, 106, y 161, de la Constitucion.

ART. 11. Tiene las atribuciones siguientes:

1°. La publicacion de las actas y disposiciones del Gobierno.

2°. La ejecucion de las Leyes Electorales.

3°. El ejercicio de la polica general, y la ejecucion de todas las Leyes, Decretos, y Reglamentos en la extension de su Provincia.

4°. El libramiento y vigilancia de los permisos, pasaportes, y otras licencias autorizadas por la Ley.

5°. La instalacion de los funcionarios publicos, los cuales prestarán juramento ante él, cuando la Ley otra cosa no determine.

6°. La vigilancia, organizacion, y administracion de la Guardia Cívica conforme á la Ley á ella relativa, y de los Cuerpos de Policía en las Communes de la Provincia.

7°. La ejecucion de las Leyes sobre el alistamiento del Ejército y sobre todos los negocios en que intervenga la autoridad civil.

8°. La inspeccion de las cárceles y otros establecimientos publicos.

ART. 12. El Gobernador Politico cuida y dirije la Administracion rural, los trabajos de Agricultura, ejecuta las ordenes que contengan donativos y recompensas nacionales, inspecciona los puentes, barcas, y toma todas las medidas que crea conducentes, de acuerdo con la Diputacion Provincial, para mejorar el estado de los caminos; vigilará los trabajos de la Provincia, segun las Leyes y Decretos, ó en ejecucion de las ordenanzas de la Diputacion Provincial.

ART. 13. El Gobernador Politico, deberá hacer cada semestre una visita á las Comunes de su Provincia; oirá las quejas que se le dirijan contra todos los funcionarios públicos por falta de cumplimento á sus deberes, y a en lo que dependa de el, como en los abusos que puedan cometersé por los Magistrados en el órden judicial ó municipal. En los primeros quince dias subsecuentes del mes en que hiciere la visita, remitirá al Poder Ejecutivo una relacion circunstanciada del estado de los caminos, cárceles, y agricultura, y de las mejoras que á su juicio puedan llevarse á efecto.

§ Unico. Sin embargo el Poder Ejecutivo queda facultado para dispensar una de las visitas cuando lo juzgue oportuno. Queda asimismo autorizado para ordenar el reembolso de los gastos que á su juicio estime necesarios indemnizar á los Gobernadores Politicos por sus visitas, los que serán satisfechos de la suma votada para gastos extraordinarios del Ministerio del Interior, Policía y Agricultura.

Art. 14. Al Secretario de Estado del Interior, Policía y Agricultura es quien el Gobernador Politico debe remitir la relacion prescripta por el art. anterior y corresponde ademas con los funcionarios publicos en todo lo que toca á su Provincia.

Titulo Segundo.—*De las Diputaciones Provinciales.*

Art. 15. Las Diputaciones Provinciales quedan organizadas en conformidad á los articulos 108, 109, 110, 111, 112, 113, 114, 115, y 116 de la Constitucion.

Art. 16. Durante la ausencia del Gobernador Politico ó de quien el Poder Ejecutivo indique para su reemplazo, presidira la Diputacion Provincial el primer vocal nombrado, que en este solo caso ejercerá tambien la Gobernacion de la Provincia; y dara cuenta inmediatamente al Poder Ejecutivo que determinará lo que juzgue oportuno.

Art. 17. Segun lo dispuesto por la Constitucion habrá un Secretario en cada Diputacion Provincial, que deberá redactar las actas y oficios de la Corporacion y copiarlas en sus correspendientes Registros, siendo responsable del archivo: gozará de un sueldo de doscientos pesos moneda nacional por cada Sesion, cuya dotacion saldrá de los fondos de la Caja provincial, lo mismo que los demas gastos que tengan que sufragarse.

Art. 18. Las Diputaciones Provinciales se reunirán el 1°. de Octubre de cada año, y durarán sus Sesiones treinta dias, prorrogables diez mas en caso neccesario; sin embargo los Gobernadores Politicos podrán convocarlas extraordinariamente en cualquier época del año, siempre que asi lo exija el bien estar é interés de la Provincia.

Art. 19. Toda deliberacion de la Diputaciones Provinciales se hará á mayoría absoluta de votos.

Art. 20. La Cámara de Representantes ratifica ó anula las resoluciones y ordenanzas de las Diputaciones Provinciales, segun el art. 114 de la Constitucion; y al Congreso toca decidir definitivamente las diferencias entre las diferentes Diputaciones, entre éstas y los Ayuntamientos, y entre aquellas, éstos, y el Gobierno.

Art. 21. El Gobernador Politico, como tambien los miembros presentes en las Sesiones, deben firmar todas las actas de las deliberaciones de la Diputacion Provincial, las que serán inscritas, por su órden de fecha, en un Registro numerado y rubricado por el Gobernador Politico.

Art. 22. Las Diputaciones Provinciales tendrán facultad de ordenar el empréstito de fondos de una Comun a otra para el servicio publico, siempre que los Ingresos de ésta exedan al Egreso; debiendo informar de esta medida á la Cámara de Representantes en su proxima Sesion.

Art. 23. De todos los fondos que cobren los Ayuntamientos, se deducirá un treinta por ciento para las Diputaciones Provinciales: esta suma servira para sufragar los gastos de la Corporacion, para poder llevar á efecto la apertura y limpieza de caminos, y tambien para auxiliar á los Ayuntamientos que carezcan de rentas con que atender á los gastos indispensables.

Art. 24. Al fin de su Sesion Constitucional las Diputaciones Provinciales deberán formar dos estados generales de sus Ingresos y Egresos, comprendiendo en ellos las cuentas de sus respectivos Ayuntamientos: depositarán uno en su archivo, y el otro lo someterán á la Cámara de Cuentas, con sus comprobantes, para su exámen y aprobacion; y devuelto ques les sea, lo remitirán á la Cámara de Representantes junto con sus resoluciones y ordenanzas.

Art. 25. Se nombrará un Perceptor de los fondos provinciales, que gozará de dos y medio por ciento sobre sus Ingresos, sin que se entienda que deba cobrar esta indegnizacion de las sumas existentes en Caja. El Perceptor podrá ser elegido entre los miembros de la Diputacion Provincial, ó fuera de ella, segun

determine la Corporacion; y será responsable de las cantidates que se le entreguen.

ART. 26. Cada trimestre se hará un tanteo de la Caja de la Diputacion, por una Comision compuesta del Gobernador Politico, que la presidirá, de los miembros de la Corporacion que se hallen presentes y del Corregidor y Alcalde Constitucional, ó de quien éste delegue para su reemplazo.

TITULO TERCERO.—*De la Secretaria de los Gobernadores Politicas.*

ART. 27. Cada Gobernador Politico tendrá un Secretario, este empleado será nombra por el Poder Ejecutivo, á propuesta del Gobernador y retribuido por el Erario Público.

ART. 28. Ninguno podrá ser empleado á la vez en la Secretaria de un Gobernador Politico y en la de una Diputacion Provincial ó Ayuntamiento.

ART. 29. Queda derogada la Ley sobre Administracion Provincial dada por el Tribunado en fecha 28 de Mayo de 1845, y toda otra disposician que sea contraria á la presente Ley, la que será enviada al Senado para los fines Constitucionales.

Dada por la Cámara de Representantes á los treinta y un dias del mes de Agosto del año mil ochocientos cincuenta y cuatro y undécimo de la Patria.—El Presidente de la Cámara, *Felipe Perdomo*.—Los Secretarios, *N. Ureña*, *J. Antonio Pina*.

Comuníquese al Poder Ejecutivo para su promulgacion y ejecucion.

Dada en Santo Domingo de Guzman á los treinta y un dias del mes de Agosto del año mil ochocientos cincuenta y cuatro y undécimo de la Patria.—El Presidente, *José M. Moralcs*.—El Secretario, *Joubert*.

Ejecútese, comuníquese por la Secretaria del ramo, publicándose an to do el territorio de lë República pera su cumplimiento y observacia.

Dada en el Palacio Nacional á los cinco dias del mes de Setiembre de 1854 año once de la Patria.

SANTANA.

Refrendado:
El Ministro del Interior,
Policia y Agricultura.
DOMINGO DE LA ROCHA.

ANSWER TO THE REPORT OF THE SECRETARY OF STATE.

WASHINGTON, D. C., *February* 7, 1868.

Mr. PRESIDENT: After many years of anxious expectation, the American claimants to the island of Alta Vela are gratified by the receipt of the final report of the Secretary of State upon the subject of the claim in question.

In explanation of the extraordinary period of time permitted to elapse by the department without giving this pressing claim its attention, we are informed by the Secretary that the then President considered that "the time was unpropitious to prosecute the claim of Patterson and Murguiondo, *however just it might be*," and gave "direction" that it should not receive "attention," though his order is not given among the papers.

Again we are told that "proceedings were suspended," because, since the close of our own war, the government of St. Domingo had been occasionally revolutionized, had represented itself to the United States as weak and unstable, and "*requested a loan of money*;" and, under these circumstances, the United States had opened a negotiation with her "concerning the cession of the penin-

sula of Samana, which failed during the summer of 1867." Nothing was done, from the time of that failure to the present, when, as a bar to proceeding again the Secretary says: "The political condition of the republic of San Domingo has not essentially improved. It is still feeble, destitute of resources and credit, and a theatre of military revolution. A special envoy is now here soliciting financial and moral assistance." Upon this interesting summary of the condition of the government which insulted, outraged, and plundered us, the Secretary concludes that it would still be "*inexpedient*" to enforce our rights, "even if the justice of the claim of Patterson and Murguiondo were *clearly* and *conclusively established*." Of course we do not propose to *discuss* these views of the Secretary, though he himself seems to lay great stress upon them. Their simple restatement in a condensed and naked form will serve our purpose. Were we to institute a grave and serious *argument* to prove that they are unworthy of your consideration, we would humiliate ourselves as citizens of the United States, and be guilty of a disrespect to its Chief Magistrate, which we are not disposed to commit. We shall, therefore, pass by this feature of the "report" with the single remark that, should this new theory prevail in the conduct of our foreign affairs, it may be difficult hereafter to obtain the adjustment of any dispute, or the satisfaction of any injury; for, though our territory may be wrested from our jurisdiction, our flag displaced by any rag that floats, our citizens robbed and imprisoned, and our vessels detained by force in foreign ports, it will only be necessary, to defeat our just demands for redress, that the aggressor should "request a loan of money," or offer to sell us something. No instance is related in the books, nor have we learned of one from any other source, where any of the sovereign powers of the earth have taken a proposition to borrow money, or to sell something as an atonement for an act of armed and premeditated violence to its flag, accompanied by the seizure of its territory and the plunder and imprisonment of its people.

The unhappy condition of St. Domingo may well excite the individual compassion of the Secretary, but the fact that it is the scene of perpetual violence and lawless contention, makes it all the more important that the authority of the United States should be put forth, in an unmistakable manner, to save our rights and interests from violation by the chances of this ceaseless and barbarous warfare.

You will perceive, Mr. President, throughout this entire report, a most singular disinclination, on the part of the Secretary, to aid the claimants in the pursuit of their rights—a sentiment so painfully manifest that we cannot overlook it, though wholly beyond our power to explain. He spares us all doubt as to the issue before the department by a declaration preceding any examination of our claim, that, however "*clearly and conclusively established*" it may be, and as a consequence, "*however clearly and conclusively established*" may be the wrongs and insults inflicted upon the United States, the Secretary particularly charged with the protection of her honor, and the maintenance of her rights, deems it "inexpedient" to take any steps for defence, redress, or restitution.

In this report, which purports to contain all the correspondence in relation to Alta Vela, we do not find the report of Mr. Patterson, despatched by Secretary Black on a special mission to St. Domingo, nor the letter of Mr. De Ronceray, our counsel at San Juan, Puerto Rico, both of which are material to a correct understanding of the case. The letter of Mr. De Ronceray, filed by the claimants, will show the premeditated character of the outrage committed by the Dominican government, and that our consular agents considered it so clearly an act of lawless spoliation, that they endeavored to prevent it by the armed forces of the United States. Mr. Patterson's report, we believe, embodies, substantially, the same facts as Mr. Cazneau's despatch of February 19, 1867, (Appendix 38,) and proves, further, that the expulsion of the American colony from Alta Vela was the result of a Spanish intrigue, the object of which was to ap-

propriate St. Domingo as a province of Spain, to be devoted to the perpetuation of African slavery, and which could not, therefore, tolerate the near proximity of the American flag. There is also wanting a letter or two of claimants' attorneys addressed to the department, which set forth our views as to the proper *mode of redress*. Of this circumstance we should make no complaint, did it not give room to suspect that, in some word or line of an absent paper, there might be found the least authority for the subjoined astonishing statement of the Secretary, which will be found on page 12 of the printed report, with a heading of staring capitals: "it has already appeared that Patterson and Murguiondo distinctly disclaim any expectation or desire that the Executive of the United States shall apply to the republic of St. Domingo for indemnity or any form of redress sounding in damages in their behalf." Singularly enough the Secretary follows up this remarkable declaration by a quotation from Mr. Black's letter of July 22, 1867, (Appendix No. 42,) upon which he *actually seems to rely* for support. To show that this is exactly the "decision" in which we did *not* "acquiesce," we reproduce the passage: "What is *now* asked is, that you send a vessel to Alta Vela and put Messrs. Patterson and Murguiondo into possession. This is the short and simple way of dealing with the business. Negotiations will be out of place *until* the parties are in *statu quo*. Repossession under such circumstances is not only required by public law, and on general principle, as the *first* step to be taken, but it is made the duty of the government, in this case, by an express statute. The act of 1856 requires the naval force of the United States to be used to maintain the American citizen in his possession. The right or the duty to repel force directed against a possession always includes the right to retake it after it has been unlawfully seized." It cannot be doubtful that, if we are entitled to anything, we are entitled to immediate possession of this island; and, if we are entitled to the island, even the Secretary of State will find it hard to dispute our right to indemnity for a forcible and ruinous expulsion, followed by seven years of continuous spoliation by our adversary. Even had Patterson and Murguiondo been foolish enough to relinquish their clear and perfect claim to damages, the *government* could not abandon it without shameful dishonor. The wrong done to these citizens was a wrong done to the State which owed them protection, even greater than to them; and, if the authority of that State is to be violated by whomsoever wills, as Secretary Cass held in a case precisely similar, "the character of an American citizen will cease to command respect, and it will be little else than a mockery to invoke the protection of the American flag." But there is not a syllable in all this correspondence to indicate that Patterson and Murguiondo ever remotely dreamed of abandoning their claim for damages. On the contrary, that claim, made out as minutely and circumstantially as the knowledge they possessed in 1860 enabled them to make it, has always been, and is now, on file in the State Department. But, "what is *now* asked (and we repeat it in the charitable hope that there may be no further misunderstanding) is, that you send a vessel to Alta Vela and put Messrs. Patterson and Murguiondo into possession."

We find in this report a notice, and a letter or two of one W. T. Kendall, paraded as a *bona fide* claim to the guano of Alta Vela. It never could have been made in good earnest, for it was simply a ridiculous assumption, abandoned almost as soon as made, and never heard of afterwards. Kendall's notice of discovery and Patterson and Murguiondo's are of even date; but the latter informed the department that they would have forwarded theirs on the 29th of April previous, but that they waited for original letters from the captain, of which they had received duplicates. It seems that these originals were sent by the hands of Kendall's captain, and, in the language of the notice, did "not come to hand for some unaccountable and unexplained reason." Kendall's subsequent short-lived pretensions entirely removed the mystery. Captain Kimball knew of the deposit of guano in 1859, and had taken actual possession of it for Patterson

and Murguiondo in February, 1860—a full month before Kendall thought of setting up his ephemeral pretence of a discovery

But Kendall's claim being absurd upon its face, abandoned by himself, neither heard nor thought of for the last eight years, the Secretary introduces what he is pleased to call a "new and distinct claim" by the "Alta Vela Guano Company." He is again in error as to matter of fact. This is not a "new and distinct claim," unless *any claim* by the government of St. Domingo may be considered "new and distinct"—for the parties who make it pretend to nothing but a lease from that government. St. Domingo, having ousted the lawful occupants by force, grants to certain other persons the privilege of deporting our property, and when these latter come before the department, pleading in their behalf the amiable concessions of the despoiler, we are triumphantly told of the discovery of a "new and distinct claim." In one sense it is "new," though not very "distinct;" for it is the first time, in all the history of this case, that the Dominican government, or anybody for it, or in its name—save and except only the American Secretary of State—have asserted title of any sort to this island. There is every reason to believe that the "Alta Vela Guano Company" are none other than the successors of T. R. Webster & Co., speculators, who operate upon a lease supposed to have been extracted from the government of San Domingo by Spanish influence, and who were informed by the Secretary in September, 1866, that "they would deal with the subject at their peril; and that they would acquire no rights which would not be subordinate to those which the other claimants might succeed in establishing," &c., &c.

Among the bold display headings which mark the numerous divisions of this report, and which, if designed to discredit the case of Patterson and Murguiondo, are arranged with great artistic skill, your eye will readily catch this one: "*Claim disallowed.*" It will be seen by reference to Mr. Black's letter of August 5, 1867, (Appendix No. 45,) that this is a grievous error. This claim has never passed to a decision by any competent authority. No legal or sufficient notice has ever been served upon us, or our clients, of any action whatever by the President of the United States, who alone is charged by law with the determination of the matters in dispute. The Secretary, doubtless, proposed to himself the pleasure of aggrandizing a foreign power by the denial of plain justice to our own people, as he distinctly informs us in various parts of this paper; but his wishes, however warm, could not pass into a decree without the sanction of the President. In this connection we respectfully refer to the certificate of John F. Coyle, hereto appended, and which raises a strong presumption that, on the 13th of September, 1867, the Secretary himself was unaware of the fact that the claim had been "disallowed," whereas the date of this pretended decision is the 18th of July previous.

The Secretary seems to anticipate that his tender appeals in behalf of the unhappy republic of St. Domingo, his diversion in favor of the departed Kendall, and even the "new and distinct" claim of the "Alta Vela Guano Company," may avail nothing against your sense of duty, or alter your determination to maintain the honor of the United States and the rights of its citizens. He therefore advances, on page 14, a fresh assumption, and brandishes his new weapon with such intrepid confidence that we cannot but believe him in earnest, and thoroughly convinced that he has demolished the last excuse for Executive interference with our interesting Dominican jobbers and jailers. Here you are informed that Thomas R. Webster & Co. having obtained permission of St. Domingo to carry away our property, the question resolves into "a conflict between citizens of the United States;" that it is "purely a legal controversy," and "only *incidentally* a national one;" that the courts of the country are clothed with jurisdiction over the subject-matter, with power to execute their judgments. We have no desire to mislead you, Mr. President. We have made a fair statement of the argument, and we assure you that it occurs in no letters by Kendall,

Root, or Clarke. If you turn over but a few leaves more you will find attached the genuine signature of the Secretary of State. This singular idea never struck Kendall in the maddest moment of his brief strut before the department, while Root, Webster, and the "Alta Vela Guano Company" have all modestly declared that they have, and *can have*, no rights which are not derived from the aggressor against whom we propose the reclamation. It appears to have been a late conception of even the ingenious mind which brought it forth; for, on the 14th of September, 1867, the Secretary himself admonished Webster & Co. in the following terms, (Appendix No. 49:)

DEPARTMENT OF STATE,
Washington, D. C., September 14, 1867.

GENTLEMEN: In reply to your letter of the 12th instant, in relation to the guano deposit on the island of Alta Vela, I have to state that, in the letter of the 21st of February, 1866, to H. R. Root, to which you refer, he was distinctly informed "there are already two parties claiming rights as discoverers of the island, and the right is denied by St. Domingo, whose authorities ejected them; the claim made by these parties for damages, covering the whole value of the guano, is still under consideration." The design and effect of that statement was to warn all persons to whose knowledge that letter might come that they would deal with the subject at their peril, and could acquire no rights which would not be subordinate to those which the other claimants might succeed in establishing. Those rights have not yet been determined. If the claimants are found to have acquired the exclusive right to dig guano under the law regulating the subject, subsequent grant to you by the Dominican republic will not affect it, and this government will be under no obligation to aid you in enforcing, as against a foreign state, any rights which flow from a contract with it, into which you voluntarily entered.

Your obedient servant,

WILLIAM H. SEWARD.

Messrs. THOMAS R. WEBSTER & CO.,
36 *South street, New York.*

Is our remedy against the adverse possession of St. Domingo to be had in an action of ejectment, or should a *quo warranto* be addressed to President Cabral, if that gentleman is still in power? Shall we lay an injunction upon the Dominican official under whose direction the guano is being dug and shipped? And if any of these, how, and with the aid of what sort of a *posse*, shall the marshal serve the processes, and execute the judgments of the court? In short, this is not "incidentally," but originally and wholly a question between the two nations, with which the judiciary have nothing on earth to do, but which must be determined entirely by the political department of the government. The act of Congress does say that crimes committed upon the island shall be punished under the laws of the United States, as though committed on the "high seas" on board "a merchant vessel belonging to the United States;" and it is perhaps from this clause that the Secretary derives the fancy that the "courts are expressly clothed" with the novel power which he attributes to them. But this island was forcibly seized from the United States seven years ago. Our citizens, peaceably engaged, were kidnapped by St. Domingo, and transported to a distant prison; and we are not aware that the processes of the federal courts run in that locality at the present time.

The Secretary makes the point that the bond of Patterson and Murguiondo was not filed till 1866; and says, as if conscious of its weakness, that he "might be unwilling to insist peremptorily on this position, but he thinks it his duty to stand upon it until a different construction of the act shall have been pronounced by the courts or declared by Congress." Here, again, we are quite certain that he misapprehends the spirit and the letter of the law. The first section of the act says, that when a deposit of guano shall be discovered on certain islands, and the discoverers, being American citizens, have filed the proper notice of the fact, with evidence that it was not, at the time, in the jurisdiction, possession, or occupation of any other State, then (from that time forward) it might be "considered as *appertaining to the United States.*" The second section says

that such *discoverers* "may, at the pleasure of Congress, be allowed the *exclusive right of occupying said islands*, provided they shall enter into bonds to sell the guano nowhere but in the United States"—and to do so under certain regulations. Patterson and Murguiondo might discover, give notice, and have the lawful right to enter upon the use of the guano, but it will scarcely be held that they were in anywise bound to file a bond not to sell it outside of the United States, when, in consequence of a piratical eviction by St. Domingo, they were not permitted to load a single pound for *any* market, or to show their flag, or strike a shovel anywhere on the island. But this, at all events, is a question of no moment in the controversy as it now stands, for that part of the act which requires bond, and limits the sale, was repealed in 1866. Viewed in another light, the "position" is even more untenable. Suppose Patterson and Murguiondo *had* failed to comply with an essential particular of our internal regulations; would that circumstance defeat the rights of the *nation* whose flag made the discovery, and into whose jurisdiction the island was solemnly taken by the act of occupation? And further, would it affect the duty of the nation to defend itself, its flag, its honor, to retake territory in the unlawful occupancy of another power, and to demand redress for the wrongful imprisonment of its citizens and the forcible detention of its ships? Were it even possible that Patterson and Murguiondo had forfeited all their individual rights by an error of their own, it furnished no excuse for subjecting the United States to injury and disgrace, such as it has never received without presenting the alternative of immediate reparation or immediate war.

We have now, Mr. President, cleared this plain and simple claim of all frivolous objections of the Secretary, and effectually dislodged him from all his positions taken up avowedly for the express purpose of preventing any Executive action. He has succeeded in imposing upon us a vexatious and degrading task; he has succeeded in giving over our property to a few more months of plunder; and he has, thus far, admirably prevented an assertion of the dignity and honor of our common country, to the great profit and satisfaction of the nation which tore away her flag and usurped her sovereign rights. He calls this *policy*, and such it may be, but he should do the public the justice to acknowledge that it is a policy peculiar to himself. It is rather a *want* of policy, not less than of justice and honor, which could result in nothing but shame to the name of the United States whenever invoked by its injured citizens, and ruin to every commercial interest which is covered by our flag. There is not a common seaman of our marine who would not blush to whisper such "expediency" to his comrade. We, therefore, approach the discussion of the real merits of our case with supreme pleasure.

But before proceeding we are compelled, once more, to ask your particular attention to the strange character of the conflict which the Secretary of State is urging against the rights of the claimants.

St. Domingo, though repeatedly requested to define her claims (if she had any) to this island, has yet to advance the first pretence of legal title. The armed assault upon our peaceful colony, the contemptuous expulsion of our flag, and the subsequent violence to our citizens, constitute the only assertion of St. Domingo's right to this appendage of the United States of which we have any knowledge. You will carefully note Secretary Black's instructions of January 15, 1861, (Appendix 37,) to special agent W. L. Cazneau: "You will, at once, (says he,) if you have not already done so, request the attention of the authorities to this event, and *learn particularly the grounds upon which they claim jurisdiction* of the island, in order that this government may know what measures are necessary to protect the interest of our citizens in that quarter." Mr. Cazneau replies: "When this occurred I did not fail to inquire of the Dominican authorities why they had permitted these citizens to remain on Alta Vela for several consecutive months, steadily at work, investing capital and labor in

opening a small, unbroken guano field, and preparing it for extensive and profitable development, without warning them of the claims now put forth by their government, and why, instead of allowing them a calm and legal hearing, these men were carried away by a sudden military assault on their persons and flag, destroying much of their property, and bringing the parties to this city in an undefined captivity, uncertain whether to regard themselves as prisoners of war, though in a time of profound peace between their respective nations, or as men to be tried as criminals for some nameless and undefined culpability.

"To these questions I was never able to obtain a lucid and satisfactory answer; but I am conscious that my remonstrances had the effect of deciding this government to abstain from following up the harsh measures initiated at Alta Vela.

"W. S. CAZNEAU.

"Hon. J. S. BLACK,
"*Secretary of State.*"

St. Domingo failed upon this direct application to set forth any claim; and if she had ever done so since, it is fair to presume that we would not be left in ignorance of the fact. But, after the lapse of seven years—years of patient endurance to the claimants, broken only by their imploring appeals to the justice of their own government—the American Secretary of State sets up a claim *for* St. Domingo which even she had not the effrontery to make for herself. It is a spectacle never before witnessed in the history of our foreign relations, and one which cannot be specially pleasing to the American people who have so much at stake in the preservation of their commercial rights throughout the West Indies.

The basis of the claim thus made out by the Secretary of State in behalf of St. Domingo, in default of a better one being presented by herself, is, beyond doubt, the most remarkable part of this very remarkable report. It consists of two historical facts, which we are not likely to dispute:

1. Sundry laws of St. Domingo have named Alta Vela as belonging to the republic.

2. Columbus discovered it.

St. Domingo *might* have enumerated the Western Continent as among her dependencies, but that circumstance would by no means have completed her title. In these very laws she claims sovereignty over a province, and an island, which are no more within her jurisdiction than Alta Vela itself. Should our government *adopt* the modest principle of conceding away whatever property of the nation may be found to be, or to have been, enumerated among the dependencies of any foreign power, we will have found a most expeditious way of disposing of the fifty-eight guano islands now worked under the national flag, and even our title to the thirteen original States of the Union would become a little doubtful. But your time is valuable, Mr. President, and we are not permitted to waste it in an unnecessary discussion. We therefore leave the Secretary of State, so far as this point is concerned, to the emphatic and overwhelming refutation of the special agent of the department in St. Domingo, who is not so entirely in the interest of that country. He says, (Appendix 38 :)

SANTO DOMINGO, *February* 19, 1861.

SIR: I have the honor to acknowledge the receipt of your despatch No. 7, January 15, respecting the forcible possession of Alta Vela by troops of the Dominican government of persons engaged in procuring guano for a commercial house in the city of Baltimore, and I will endeavor to place before you a distinct account of all the circumstances of the case, together with the reasons assigned by the Dominican government for its summary action in the premises.

Alta Vela is a small desert key, lying, according to some charts, more than five leagues, and by the map of this island, published by order of the government, somewhat less than that distance, to the southward of that "border belt" which has been completely desolated by the wars between the Dominican and Haytien republics. Neither government permits

the citizens of the other to live on this frontier; and a long margin of the mainland nearest to Alta Vela key is a depopulated waste, without settled inhabitants, without cultivation, and, in point of actual fact, without a government.

The Dominican government claims this depopulated district because it is within the line of the old Spanish colony, which now constitutes the territory of this republic. By a law of 1855 it is defined as a portion of the province of Azua, together with the adjacent islets, Beata and Alta Vela, which are there named as dependencies of that province. Except, however, in the descent of the war schooner Merced on the American guano diggers, last October, I cannot ascertain that this republic has ever exercised the sovereign duties of protection or government on either Beata or Alta Vela since it has been a nation. In discussing this point with the minister of foreign affairs, I requested him to cite an instance in which a *de facto* jurisdiction had been extended over these outlying keys; but he was unable to go beyond the two days devoted to the capture of the American laborers, and the removal and destruction of their property by the Dominican forces.

The neighboring island of Beata has a scant supply of fresh water, of which Alta Vela is entirely destitute, and it is, therefore, occasionally occupied by the Haytien fishermen; but, so far as I can learn, Dominicans rarely, if ever, venture there.

The Haytien authorities made a visit of inquiry to the Americans at Alta Vela very soon after they commenced work, five months before any Dominicans whatever seemed to have approached the place. On being informed that an American guano company had taken possession of it under the same act of Congress which projected another company at work on the similarly situated and not distant islet of Nevassa, the Haytien officer withdrew without offering them any molestation.

The American explorers had, in their repeated visits to the key, always found it desolate, unused, and, to all appearances, outside of that care and charge which is the usual evidence of settled jurisdiction with any recognized government, and they publicly entered upon its possession as a guano deposit, within the scope and meaning of the act of Congress of August, 1856, "to authorize protection to be given to citizens of the United States who may discover deposits of guano."

As the government of Hayti, which exercises the only visible jurisdiction in that neighborhood, and disputes with the Dominican republic sovereignty over the entire coast opposite, had, after an official visit of inquiry, and with a full knowledge of their tenure of occupation, permitted the guano company to continue their business without remonstrance, our citizens were not inexcusable—as I remarked to the Dominican executive—in supposing themselves in justifiable possession of the key. If there could be any doubt of the completeness of their right of occupation, under the act of Congress before cited, they seemed entitled to consider themselves tenants-at-will of the government of Hayti, rather than trespassers on the soil and sovereignty of the Dominican republic, which had never given them any intimation of its claims until the very day it sent a military expedition to dislodge them.

When this occurred I did not fail to inquire of the Dominican authorities why they had permitted these citizens to remain on Alta Vela for seven consecutive months steadily at work, investing capital and labor in opening a small, unbroken guano field, and preparing it for extensive and profitable development, without warning them of the claims now put forth by their government, and why, instead of allowing them a calm and legal hearing, these men were carried away by a sudden military assault on their persons and flag, destroying much of their property, and bringing the parties to this city in an undefined captivity—uncertain whether they were to regard themselves as prisoners of war, though in a time of profound peace between their respective nations, or men to be tried as criminals for some nameless and unexplained culpability.

To these questions I was never able to obtain a lucid and satisfactory answer; but I am conscious that my remonstrances had the effect of deciding this government to abstain from following up the harsh measures initiated at Alta Vela.

W. I. CAZNEAU.

Hon. J. S. BLACK, *Secretary of State.*

In support of the second allegation advanced in favor of St. Domingo, the Secretary has spread before you a vivid and touching narrative of the adventures of Christopher Columbus, which may be obnoxious to the heirs of Washington Irving, but it certainly has nothing to do with this case. The Pope's bull and the will of Columbus are a quaint and curious species of literature, with which a secretary may well amuse his leisure hours, but their legal force upon the question at issue is not at all apparent. We would suggest, however, that if St. Domingo is to come in "by the grace of God," or as the sole legatee of Columbus, she has been remiss in not reciting, among her dependencies, all the West India islands, if not the balance of the western world; and the United States have just been making a fraudulent bargain for the island of St. Thomas behind the back of the real owner. In the Aves case you will recollect that Venezuela, having no better friend than Mr. Marcy or Mr. Cass in the Wash-

ington cabinet, was compelled, in her distress, to set up, through her own minister of foreign relations, this very pretension—that title vested in her as the successor of Spain. Mr. Eames, our minister at Caraccas, replied, (page 236 of the printed correspondence:)

> Of such a pretension of Venezuela to title in the Aves prior to 1854, nothing more remains, in the judgment of the undersigned, to be said, save this: that such a pretension, not having sufficient foundation to form a profitable subject of speculative historical disquisition, has no appropriate place in a discussion between governments, and when alleged in justification or excuse of a serious outrage upon citizens of the United States, cannot justly claim further consideration.

In another place (page 211) he says of it:

> Such a doctrine, opposed alike to private right and public law, and carrying on its face its own condemnation, cannot be made by the undersigned in this case a subject of discussion. Should such doctrine be formally advanced by the government of Venezuela, in bar of this claim, the duty of the undersigned will be limited to the announcement of that fact to his government. In view of the settled policy of the United States, as established in ancient usage, recognized by other powers, and reaffirmed by recent legislation, the maintenance of such doctrine by any power, and its persistent application against citizens of the United States, are not perceived to be compatible with the maintenance of peaceful relations.

These observations of the minister received at the time the special and unqualified approbation of this government; and yet American claimants are now compelled to meet the annunciation of a doctrine by their own Secretary of State, which, if put into the mouth of a foreign power, has been adjudged sufficient occasion for a general war.

Claimants under the act of 1856 acquire title not by the discovery of the *island*, but by the discovery of *a guano deposit*, and they "must file satisfactory evidence that such island, rock, or key was not, *at the time* of the discovery thereof, in the '*possession* or *occupation*' of any other government." Alta Vela was not "at the time," and never had been in the "possession or occupation" of St. Domingo. It was a desert when the hero of the Secretary's tale anchored there centuries ago, and a desert it has been ever since. It was without water or vegetation; and until the Americans found and developed its rich deposits of guano, it was supposed by all the world to be as worthless in fact as it was repulsive in aspect. Other persons had examined it for guano without success, among whom you will see, by the testimony in the Aves case, was Captain Gibbs, of Boston. Neither Hayti nor St. Domingo had the least suspicion of its wealth. Citizens and officials of both countries came there long after the American occupation, and were astonished when told that beneath its sands were vast stores of this valuable material. The officers of the Dominican war schooner Merced begged two buckets-full of it to carry away as samples, and it was this very vessel that returned, a month after, to drive away our unoffending people.

The "guano act" is in plain accord with the doctrines of public law universally acknowledged. We enforced its principle in the Aves case before and in the Navassa case after its passage. "The maritime territory of every State extends to the ports, harbors, bays, mouths of rivers, and adjacent parts of the seas included by headlands belonging to the same State." The general usage of nations superadds to this extent of territorial jurisdiction a marine league, or as far as a cannon-shot will reach along the coasts of the State. (Wheaton, p. 233.) "The rule of law on this subject is, *terra dominium finitur ubi finitur armorum vis;* and since the introduction of fire-arms that distance has usually been recognized to be about three miles from shore." (Idem, page 234.) "At present the whole space of the sea within cannon-shot of the coast is considered as making a part of the territory, and for that reason a vessel taken under cannon of a neutral fortress is not a good prize." (Vattel, Book 1, ch. 23, p. 189.) But if, so far from taking possession of it, (the fisheries on the coast,) it has once acknowledged the common right of other nations to come and fish there, it can no longer exclude them from it; *it has left that fishery in its primitive*

freedom, at least with respect to those who have been in possession of it." (Id., p. 189.) "According to the current of modern authority, the general territorial jurisdiction extends into the sea as far as cannon-shot will reach, and no further; and this is generally calculated to be a marine league, and the Congress of the United States has recognized this limitation by authorizing the district courts to take cognizance of all captures within a marine league of the American shore." (1 Kent, p. 29.)

But it is useless to multiply authorities. Whatever book you open it is laid down the same. Neither the Secretary of State, nor anybody else, assumes that Alta Vela was in the actual possession of St. Domingo. Was it, then, within three miles of her shore? Was it within her maritime jurisdiction? All authorities agree—the oaths of the claimants and their witnesses, the official statements of consuls and agents, the Coast Survey, the West India pilot, all sailing directions, and all maps and charts—that it is *at least* fifteen and a half miles beyond that cape of St. Domingo which projects furthest into the sea. There can be no dispute here as to whether it is included between headlands of the main, for we are not dealing with a continental, but a small insular state. The island of St. Domingo itself is divided between two contending powers, each of which is torn by perpetual internal conflicts. A wide border on the sea towards Alta Vela is desolate, uninhabited, and without any sort of government. Between this and Alta Vela, six and a fourth miles from the latter, lies Beata, always in the possession of Hayti, where a Dominican dare not "venture." The Haytiens were here all the time the Americans were at Alta Vela, and if there be any power on earth, besides the United States, which has a debatable claim to this island, it is surely not St. Domingo. When Mr. Cazneau pressed the minister of foreign affairs for a single instance of her sovereign care over this outlying key, "he was unable to go beyond the two days devoted to the capture of the American laborers, and the removal and destruction of their property by the Dominican forces."

We shall not dwell, Mr. President, upon the wrongs and losses of Messrs. Patterson and Murguiondo. They were cruel and ruinous, but they are swallowed up in the magnitude of the outrage upon the flag of the United States. *They* are only two citizens of a mighty state which cannot refuse to redress their injuries without, in the first place, violating its solemn faith pledged to them, and, in the second, without abandoning its name to universal contempt. If we permit, in this case, St. Domingo to enter upon our territory, drag down our flag with every mark of insult, destroy our property, and carry away to "an undefined captivity," and to detain and threaten at will an American vessel which comes to ask their deliverance, our capital and enterprise may well seek the protection of foreign colors where they find that security which, in other days, was imparted by the banner of the Union.

We have but another word. By means to which we shall not advert, Patterson and Murguiondo have already been kept seven years in a condition of nameless anxiety and distress. A company of intruders are now, and have been for some time, plundering their island of its guano, and the treasury of St. Domingo is receiving its "royalty" from this lawless trade. We, therefore, pray that the order which the President cannot fail to make may be issued without further delay.

We beg leave herewith to present a supplemental statement of S. R. Kimball, a letter of Consul de Ronceray, an analysis of guano by the Maryland State inspector, a certificate of the collector of the port of Baltimore, and a certificate of John F. Coyle.

We have the honor to be, Mr. President, very respectfully, your obedient servants,

J. W. SHAFFER,
Attorney for Patterson and Murguiondo.
BLACK, LAMON & CO.,
Of Counsel.

Claim of Patterson & Murguiondo.

CONSULATE OF THE UNITED STATES,
San Juan, Puerto Rico, November 2, 1860.

GENTLEMEN: I have to acquaint you of a contemplated attack on a party of our citizens who are engaged in getting out guano on the islet of Alta Vela, near the south coast of the Dominican territory. Under date of the 18th ultimo I am officially advised by William L. Cazneau, special agent of the United States at Santo Domingo, that "these parties are at work, undoubtedly in good faith, under the act of Congress to authorize protection to be given to citizens of the United States who may discover deposits of guano," approved August 18, 1856. The Dominican government, nevertheless, proposes, under Spanish advertisement, to dislodge them by force and destroy their property on Alta Vela. This conduct is the more inexcusable as it is clearly informed of the ample discretionary powers of our government over these matters, and that its uniformly friendly policy toward all the neighboring republics would insure in the present case an early and satisfactory adjustment, should the question of jurisdiction prove to be in favor of the Dominican republic. This, however, is very dubious, as thus far I can find no evidence that the islet of Alta Vela has ever been claimed or occupied by Dominican citizens, or that the government had ever exercised the nominal care of this outlying sand spit until our citizens discovered and developed its guano resources.

This is the sum of the present difficulty, and I state it to you for your own information, and also that you may advise the commander of one of our national vessels should it happen to enter your port while this affair is pending.

Understanding from your correspondents here, Messrs. —— ——, that your firm have large interests in this affair, I have thought it proper to communicate to you officially the substance of Mr. Cazneau's despatch to me, that whatever interests you may have in the premises may be looked after and secured without delay.

I have to add that, as one of our national vessels will more likely happen at St. Thomas, I have transmitted a copy of Mr. Cazneau's despatch to our consul there, with the request that he will be pleased to advise the commander thereof, as requested in said despatch.

I am, very respectfully, your most obedient servant,

C. DE RONCERAY,
Consul U. S. A., San Juan, Puerto Rico.

Messrs. PATTERSON & MURGUIONDO,
Merchants, Baltimore City, Maryland.

Certificate of John F. Coyle.

Some days prior to the 13th day of September, 1867, a statement, of which the first paragraph in the accompanying slip is a copy, appeared in the Times, of New York. I called the attention of the Department of State to it, and was informed that it was without the least foundation in truth; that, on the contrary, the case referred to was still pending for adjudication, and I was authorized so to state through the columns of the National Intelligencer. I did so in the issue of 13th September, 1867, (Friday,) as follows:

CLAIM REJECTED.

A claim involving $1,500,000 has recently been rejected by the State Department. It was presented by a Baltimore company, through Messrs. Black, Lamon & Co., of this city, who

were to have twenty-five per cent. of the proceeds if successful. The claim is said to have been for an island in the South Pacific, which the company claimed by right of discovery, but of which our naval vessels subsequently took possession. Persons here are querying whether the rejection of this claim has anything to do with the desire of certain parties for a change in the State Department.

We are authorized to state that the above paragraph, from the Washington correspondence of the New York Times, is wholly without foundation. The case referred to is one of some magnitude, involving international questions, which are receiving the attention they deserve from the Secretary of State.

JOHN F. COYLE.

JANUARY 25, 1868.

Supplemental statement of S. R. Kimball.

BALTIMORE, *January* 29, 1868.

SIR: I am not quite certain that I have embraced *all* the following facts in connection with the eviction of our people from the island of Alta Vela, in my protest now on file in the Department of State.

I beg to premise that, during the whole of my controversy with the Dominican government upon this question, I was oppressed with the weight of the responsibility that rested upon me.

The violent nature of the outrage by which our establishment had been broken up at Alta Vela—coming as it did without warning—the destruction of our property, and the imprisonment of our people, were calculated to produce the most intense anxiety and apprehension; the more particularly as it occurred during my absence from Alta Vela, and left me only to conjecture the extent of the disaster. I *knew*, the moment I arrived at the island, that the pecuniary damage to my owners and myself was total; but what was of still greater importance, the fate of our men filled my mind with the gravest apprehensions; for I knew, from the character of the Dominican people, that the gratification of their passions is under no legal or moral restraint. When I arrived off St. Domingo, I was totally ignorant of what had happened to them. It was, of course, my first duty to ascertain their condition, and, if in captivity, to secure their liberation. I consider the pecuniary loss, although ruinous, was secondary to this. Impressed with this great responsibility, the tone of my letters to our consul was, perhaps, colored by this apprehension, and it may be that my statements were not as clearly and as sharply defined as they ought to have been. With this explanation I beg leave to submit my statement.

I am strongly impressed with the belief that I omitted to state that I sent a communication to the American consul at St. Thomas, and may also have omitted other facts which may be important. I will briefly recapitulate the facts in the case:

I was absent from Alta Vela, at Kingston, Jamaica, when the Dominican schooner of war went to Alta Vela and forcibly took our people to Santo Domingo as prisoners, and committed the other outrages detailed by Mr. Miller.

When I returned to the island and found it entirely deserted, and our arrangements entirely broken up, I at once suspected that the people had been carried to St. Domingo. I immediately sailed to St. Domingo, and laid on and off the port, and sent a boat to communicate with our consul, requesting him to ascertain whether I would be permitted to enter and depart without detention and molestation. I received assurances that I might enter and depart at my own will. Accordingly, I entered the port, but soon found that not the slightest faith was to be attached to the assurances thus given; for I had no sooner hauled my vessel in to the wharf than the captain of the port took charge of her, and I was forbidden to leave until I received authority to do so from the government.

I denounced these high-handed proceedings as wholly unjustifiable, and reminded the authorities that the government of the United States would infallibly

call them to account for these high-handed proceedings. Many efforts were made to induce me to acknowledge the right of Dominica to the island. I was assured if I would do so and pay that government a royalty, that I would be permitted to work the island. I replied that I could not enter into such arrangements, but demanded that the whole question should be submitted to my own government, and *if, upon a full discussion of all the facts and circumstances, it was determined that our action had been illegal, and the rights of Dominica had been violated, I would cheerfully agree to pay that government for the guano we had taken away, and for any damages that had been inflicted. I made this proposition not because I had the remotest doubt of our right to that island, but because I deemed that the proper mode—indeed the only one—by which a controversy of this sort could be justly settled.*

The fact that Dominica proceeded to violence, rather than to the plain course of appealing to our government for redress, is almost conclusive proof that the Dominican government was satisfied that it had no claim to the island of Alta Vela. I dwell upon this, from the fact that I have learned that that portion of my papers referring to it has been misunderstood. Never for a moment did I intend to express a doubt of our right to the island, or to acknowledge any right of Dominica to it. All that I proposed to do was ALTERNATIVE. IF, upon investigation by competent authority, it was determined that I was wrong and they were right, I would be the first to redress the wrong. Finding that I could make no impression upon the sense of justice of the Dominicans, and the detention being ruinous to myself and owners, I determined to communicate, if possible, with one of our cruisers, and appeal to them for protection, but I found that all vessels leaving the port were forbidden to take communications of any sort from my vessel. Finally I succeeded in putting a despatch on board a small vessel bound to St. Thomas, addressed to our consul there, also enclosing a despatch to La Guayra in case there should be no war vessel at St. Thomas.

Whether these despatches were ever received or not, I do not know. After being detained for nearly a month, I made formal protest, which the United States consul presented to the government, with a remonstrance so urgent and determined that they finally permitted us to sail, and, so far as I have any knowledge, *without having to this day demanded from our government redress and indemnity for our alleged trespass and spoliation of their property*, as they claim.

All of which is respectfully submitted by

Your obedient servant,

SAMUEL R. KIMBALL.

The PRESIDENT.

STATE OF MARYLAND, *Baltimore City, to wit:*

Be it remembered, and it is hereby certified, that, on this thirtieth day of January, eighteen hundred and sixty-eight, before me, the subscriber, a notary public of the State of Maryland, in and for Baltimore city, personally appeared Samuel R. Kimball, to me known to be the person whose name is subscribed to the above paper, headed "Supplemental statement of S. R. Kimball," and made oath on the Holy Evangely of Almighty God that the matters and things therein stated are true as so stated. As witness my hand and official seal the day and year aforesaid.

JOSEPH T. ATKINSON,

[SEAL.] *Notary Public.*

WASHINGTON, *February* 11, 1868.

Mr. PRESIDENT: The city of Baltimore has long enjoyed a large and lucrative trade in guano. Her merchants, encouraged by the "guano act," were the pioneers in developing this great branch of commerce, and the city of Baltimore

became its main distributing point, and the State of Maryland, in common with other agricultural regions of the country, is deeply interested in the protection and promotion thereof. We are, as the representatives of the people of that commonwealth, profoundly anxious that all claims arising under the "guano act" may be speedily and correctly decided by your excellency. We therefore call your special attention to the claim of Patterson and Murguiondo, American citizens, who discovered and took possession of the island of Alta Vela in the Caribbean sea, but who were subsequently ejected therefrom by the authorities of St. Domingo without color of right or warrant of law.

The claim of these gentlemen, highly respectable merchants of Baltimore, for restitution and redress, has been pending in the State Department ever since 1861, but, for some reason unknown to us, has never been acted upon. That the claim is one which this government cannot fail to enforce, we have no doubt, and we deem it of vast importance to the permanent security of the guano interest that it should be done without further delay.

We shall not here refer to the individual injuries of Patterson and Murguiondo, but it is worthy of note, that while the United States hesitates to enforce her undoubted rights, these citizens are being robbed day by day to an enormous extent by St. Domingo and her lessees.

We have the honor to be, very respectfully, your obedient servants,

FRANCIS THOMAS.
CHARLES E. PHELPS.
F. STONE.
H. McCULLOUGH.

Analysis of guano from Alta Vela, imported by Patterson & Murguiondo, of Baltimore, Maryland, during 1860.

Date.	Name of vessel.	Phosphoric acid.	Equal to bone phosphate of lime.
1860.			
May 30	Bark Ellen Morrison	29.10	63.15
July 26	Schooner Tremont	32.50	70.95
Sept. 4	Schooner Alice Mowe	25.10	54.38
Oct. 2	Schooner Jennie Morton	24.05	52.11
Nov. 12	Brig Mary Morton	25.00	54.16
Dec. 14	Brig Roseway Belle	24.20	52.43

BALTIMORE, *January* 31, 1868.

I certify that the above is a correct copy of analysis as taken from my books.

THOMAS I. PITT,
State Inspector of Guano from 1858 *to* 1862.

Witness: J. HARRY SULLIVAN.

CUSTOM-HOUSE, BALTIMORE,
January 31, 1868.

I hereby certify that the brig Delta, Captain J. W. Gosling, entered at this port May 26, 1860, from Guano Keys, Mexico, per record of this office.

RICHARD BOWERMAN,
Deputy Collector.

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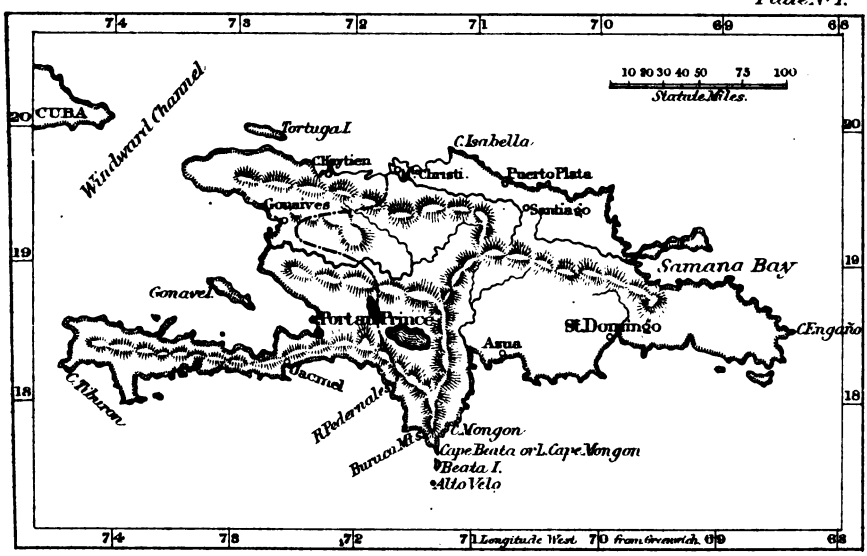
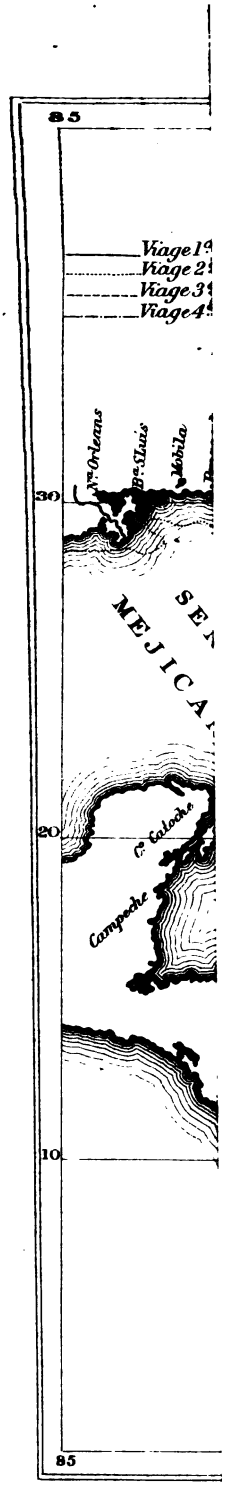
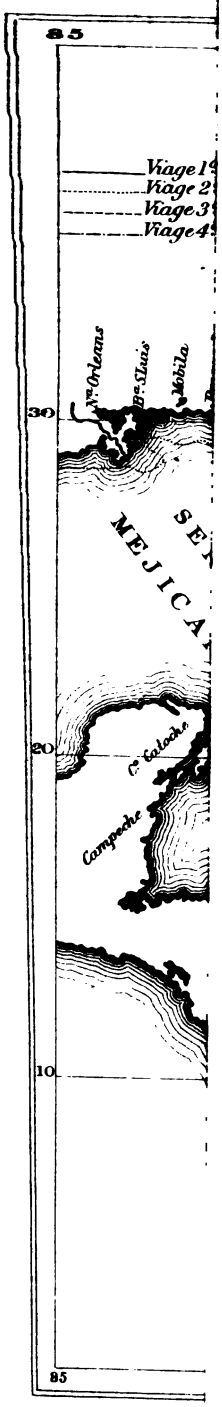
MAP OF THE ISLAND OF HAYTI.

Plate N°I.

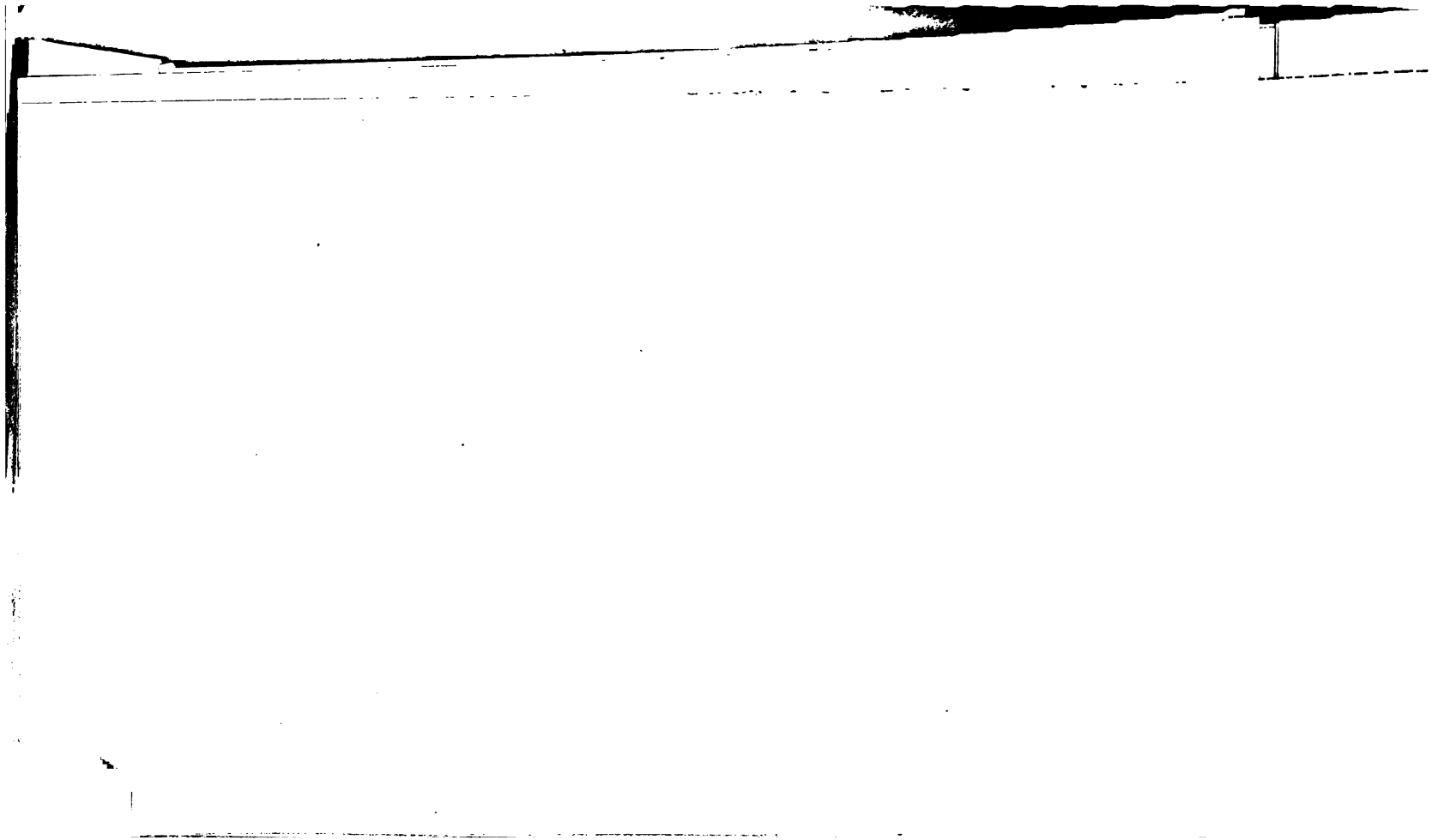


Browen & Co. Lith. Fml.ª


85
Viage 1º
Viage 2º
Viage 3º
Viage 4º
Nva Orleans
Bte. Louis
Mobila
30
SEN
MEJICA
Cr. Calocha
Campeche
20
10
85


85
Viage 1
Viage 2
Viage 3
Viage 4
N.va Orleans
Bs. Luis
Mobila
30
MEJICA
20
Campeche
10
85

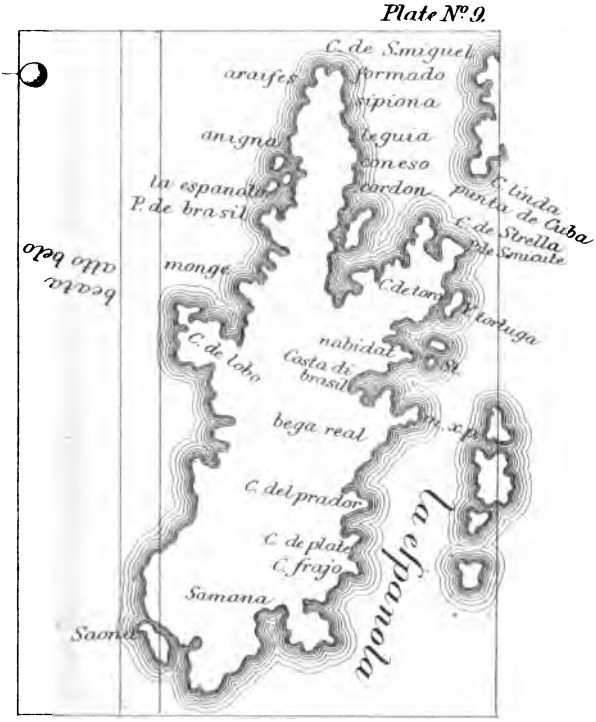
LA TORTUE
P. Moustique
Petit St Louis
P A R T I E
Gros Morne
Limbé
D E
Plaisance
LesGonaives
B. des Gonaives
PARTIE
B. de St Marc
ST MARC
Mondrouis
GONAVE
Gonave



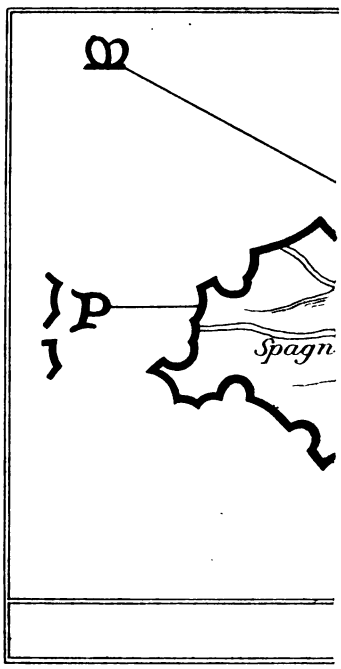
TIMITI
VEI·ME
Quarto
Vado

Pe de puarco s
Ilha
Ilha de Santiago
Ilha de Brauo
Ilha de Fuogo

Plate N° 9.



THE ANTILLIAN ISLANDS, *by J. de la Cosa 1500.*



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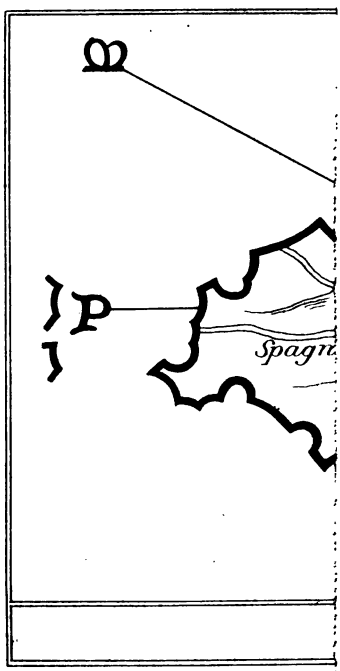

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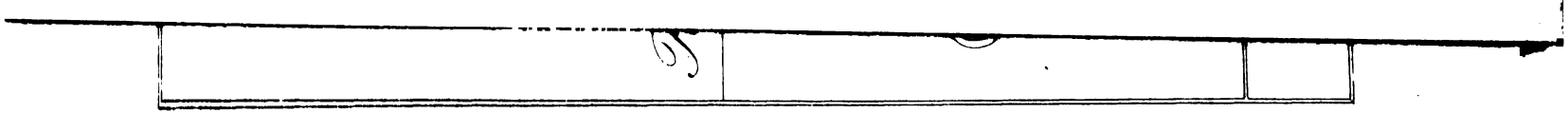

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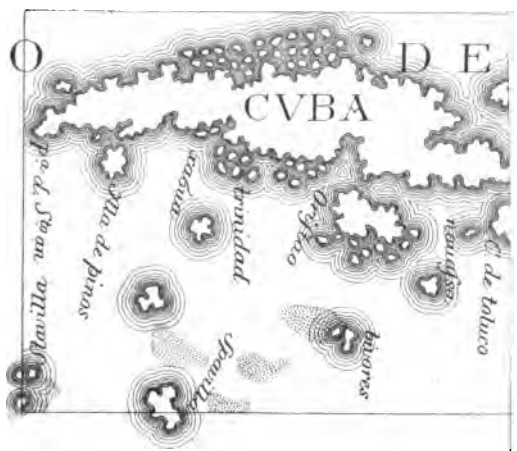

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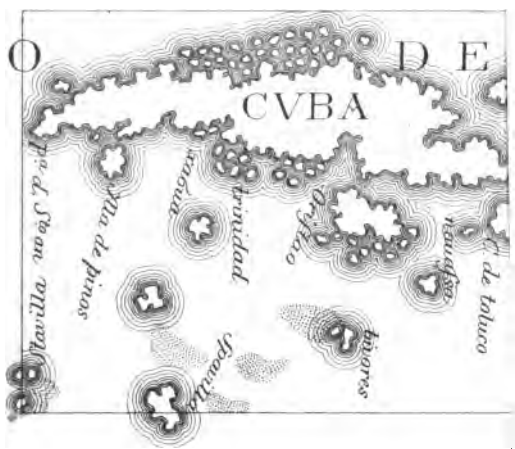
THE ANTILLIAN ISLAN

C O


CVBA
Trinidad
Cayo Sⁿ Antonio
Cayo de Sⁿ Diego
Cayo de Sⁿ Maria
Cayo de Sⁿ Roman
Cayo de Sⁿ Sebastian
Cayo de Sⁿ Maria

THE ANTILLES F